

**OFFICIAL INFORMATION\*\*CONFIDENTIAL\*\*EVIDENCE CODE SECTION 1040  
INTRADEPARTMENTAL CORRESPONDENCE**

DATE: October 22, 2020

TO: Honorable Board of Police Commissioners

FROM: Inspector General

SUBJECT: OFFICER-INVOLVED SHOOTING 056-19 FOR 10/27/20 CLOSED-  
SESSION AGENDA

<u>Division</u>	<u>Date</u>	<u>Time</u>	<u>Duty-On (X) Off ( )</u>	<u>Uniform-Yes (X) No ( )</u>
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Newton	12/1/19	2:00 a.m.		
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<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
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Rios, M./PO II	3 years, 7 months
Velasquez, F./PO II	3 years, 7 months

Total Involved Officer(s)

6 x PO II

<u>Suspect</u>	<u>Deceased ( )</u>	<u>Wounded ( )</u>	<u>Non-Hit (X)</u>
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Lonyea Calloway: Male Black, 21 years of age.

**COP Recommendations**

**Tactics** – Administrative Disapproval, Officers Rios, Velasquez, Mata, Bendimez, Silos and Martinez.

**Drawing/Exhibiting** – In Policy, No Further Action, Officers Rios, Velasquez, Mata, Bendimez, Silos and Martinez.

**Lethal Use of Force** – In Policy, No Further Action, Officer Rios and Officer Velasquez.

**IG Recommendations**

**Tactics** – Same as COP.

**Drawing/Exhibiting** – Same as COP.

**Lethal Use of Force** – Same as COP.

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## **INVESTIGATION**

### **Annotated Force Investigation Division (FID) Incident Summary<sup>1</sup>**

**Synopsis:** Newton Patrol Division officers responded to a radio call of a male pointing a handgun at passersby. Officers located a possible suspect walking west on 7<sup>th</sup> Street just east of San Pedro Street. When the officers attempted to detain the suspect, he fled east on 7<sup>th</sup> Street, then south on Crocker Street. The officers chased the suspect on foot until he reversed his direction and ran toward them while holding a handgun, resulting in an Officer-Involved Shooting (OIS).

### **Background**

On Sunday, December 1, 2019, at approximately 0151:27 hours, an unknown male called 911 to report that a male Black, wearing light blue jeans and a backpack, was pointing a revolver at passersby near the Rivers Apartments, located at 1242 East 7<sup>th</sup> Street. He was described as being on foot on 7<sup>th</sup> Street toward San Pedro Street. A radio call was subsequently generated by Communications Division (CD) under Incident No. 19120100000382 (Addendum No. 1).

At approximately 0155:00 hours, Newton Patrol Division uniformed Police Officers II Manuel Rios, Serial No. 42557, and Franco Velasquez, Serial No. 42563, assigned Unit 13A9, were in the area of Pico Boulevard and Maple Avenue meeting with Newton Patrol Division uniformed Police Officers II Steven Silos, Serial No. 42869, and Johanna Martinez, Serial No. 42439, Unit 13A93, and David Sosa, Serial No. 42449, and Francisco Pimentel, Serial No. 42445, Unit 13A85, when they acknowledged the radio call.<sup>2-3</sup>

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<sup>1</sup> The Incident Summary presented here is reproduced from FID's report regarding this case, and is supplemented with annotations by the OIG. All OIG annotations are referenced as an "OIG Note." All other references and citations in the reproduced FID Incident Summary (e.g., Investigators' Notes or Addenda Items) are reproduced directly from FID's report. Unless otherwise stated, all information provided in OIG annotations is derived from FID's investigation of this incident.

<sup>2</sup> Officer Rios, 3 years, 7 months with the Department, 28 years of age, 5 feet 9 inches tall, 200 pounds. Officer Velasquez, 3 years, 7 months with the Department, 32 years of age, 5 feet 10 inches tall, 170 pounds. Both officers were attired in full police uniform and were wearing Body Worn Video (BWV) cameras attached to the front of their uniform shirts and Department-issued ballistic vests. They were each equipped with a Department-approved pistol with an attached tactical light, handcuffs, Oleoresin Capsicum (OC) spray, a TASER, a Hobble Restraint Device (HRD), a flashlight and a collapsible baton. Officer Rios was the driver of Shop No. 80498, a black and white Ford Explorer equipped with ballistic panels, a Digital In-Car Video System (DICVS) and emergency lights and siren.

<sup>3</sup> Officer Silos, 3 years with the Department, 32 years of age, 5 feet 8 inches tall, 160 pounds. Officer Martinez, 3 years, 8 months with the Department, 25 years of age, 5 feet 4 inches tall, 158 pounds. Both officers were attired in full police uniform and were wearing BWV cameras attached to the front of their uniform shirts and Department-issued ballistic vests. They were each equipped with a Department-approved pistol, handcuffs, OC spray, a TASER, a flashlight and a side-handle baton (in their vehicle). Officer Silos was equipped with his HRD on his person and Officer Martinez' HRD was available in her

According to Officers Rios and Velasquez, the additional officers that were present heard the radio call and advised them that they would also respond. While en route to the call, at approximately 0156:50 hours, Officer Velasquez contacted CD via radio and asked if the person calling could still see the suspect.

**Note:** At 0159:00 hours, CD broadcast that there was “*no further*” regarding their request, which was approximately 31 to 33 seconds prior to the OIS.

As they drove north on San Pedro Street approaching 7<sup>th</sup> Street, Officer Velasquez indicated he unholstered his firearm. In providing a rationale for this tactic, Officer Velasquez stated, “*I was under the impression that the suspect was going to be around that area. At which point, I unholstered because I believed that the suspect was going to have the upper hand on us as being so close to the location.*”<sup>4</sup> Officer Velasquez’ BWV depicted him seated in the passenger seat with his pistol in his right hand and muzzle pointed downward with his finger alongside the frame.<sup>5</sup>

As the officers drove east on 7<sup>th</sup> Street from San Pedro Street, they observed a male (later identified as Lonyea Calloway), matching the description of the suspect from their radio call, walking west on the south sidewalk of 7<sup>th</sup> Street.<sup>6</sup> Officer Velasquez immediately noticed that Calloway was grabbing his waistband area and utilized his (Velasquez’) handheld flashlight to illuminate Calloway. As Calloway continued to walk past the officers, Officer Velasquez noticed that Calloway increased his pace and looked back in their direction. Officer Rios made a similar observation and added that Calloway appeared to have a large bulky item, possibly a firearm, in his left front pocket. Officer Rios stated, “*I believe he had one hand in his pocket and then the other hand in his waistband area. And that led me to...believe that he was armed.*”<sup>7</sup> According to Officer Rios, he discussed his observations with his partner.

**Note:** Officers Rios and Velasquez had been assigned as partners for approximately a year and a half. According to Officer Rios, he and Officer Velasquez had numerous conversations regarding a variety of tactical scenarios that included the topics of contact and cover and their responsibilities during investigations.

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vehicle. Officer Silos was the driver of Shop No. 81573, a black and white Ford Explorer equipped with ballistic panels, a DICVS and emergency lights and siren.

<sup>4</sup> Officer Velasquez’ transcribed statement, Page 12, Lines 2-6.

<sup>5</sup> In addition to BWV, there were several security cameras in the area that captured much of what occurred during this incident. Unless otherwise noted, the descriptions of events documented in this report were obtained through an analysis of those videos.

<sup>6</sup> Calloway, 21 years of age, male Black, 6 feet, 150 pounds, with a date of birth of February 14, 1998.

<sup>7</sup> Officer Rios’ transcribed statement, Page 24, Lines 13-16.



Officer Rios informed Officer Velasquez that he believed Calloway was the suspect of their radio call and conducted a U-turn from eastbound 7<sup>th</sup> Street to westbound 7<sup>th</sup> Street. Officer Velasquez stated that he was able to maintain sight of Calloway while they made the turn. He noticed that Calloway looked back in their direction while continuing to walk quickly and manipulate something in his waistband area. A security camera located at 612 East 7<sup>th</sup> Street recorded the above encounter and depicted Calloway walking to the southeast corner of 7<sup>th</sup> Street and San Pedro Street. Calloway then turned south (left) on San Pedro Street and out of view of this camera. As Officers Rios and Velasquez drove west to where they had last observed Calloway, they observed him standing on the southeast corner of 7<sup>th</sup> Street and San Pedro Street, in front of the Green Apple Market, located at 600 East 7<sup>th</sup> Street.

Newton Patrol Division uniformed Police Officers II Juan Mata, Serial No. 40829, and Kim Bendimez, Serial No. 41901, Unit 13A13, were monitoring Newton Frequency when they heard Officers Rios and Velasquez receive a radio call of a “415 man” and responded to the area to assist.<sup>8</sup> As they drove north on San Pedro Street, they observed Officers Rios and Velasquez in front of them turning east on 7<sup>th</sup> Street. Upon reaching the same intersection, Officer Bendimez observed the primary unit negotiate a U-turn and proceed west. Officer Bendimez then observed Officer Rios signal him by pointing to the southeast corner [of San Pedro and 7<sup>th</sup> Streets] as if to indicate the suspect’s location or to look in that direction. After turning east onto 7<sup>th</sup> Street, Officer Mata immediately conducted a U-turn and followed behind the primary unit. Both units then negotiated a southbound turn onto San Pedro Street.

According to Officers Mata and Bendimez, they had limited information when they responded to the radio call. They heard CD broadcast the radio call as a “415 man” but were unaware that the suspect was reported to be armed. Officer Bendimez said she attempted to review the comments of the call prior to her arrival, but she had difficulty doing so because of how the Department’s new Premier One Mobile Digital Computer (MDC) system operates. Officer Bendimez indicated that the Premier One system takes longer to access incident comments because of the requirement to first scroll through multiple screens (Investigators’ Note No. 1).

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<sup>8</sup> Officer Mata 7 years, 3 months with the Department, 37 years of age, 6 feet 2 inches tall, 250 pounds. Officer Bendimez, 3 years, 11 months with the Department, 37 years of age, 5 feet 9 inches tall, 165 pounds. Both officers were attired in full police uniform and were wearing BWV cameras attached to the front of their uniform shirts and Department-issued ballistic vests. They were each equipped with a Department-approved pistol, handcuffs, OC spray, a TASER, a HRD, a flashlight and a collapsible baton. Officer Mata was the driver of Shop No. 80538, a black and white Ford Explorer equipped with ballistic panels, a DICVS, and emergency lights and siren.



**[Image obtained from west-facing security camera at 612 East 7<sup>th</sup> Street]**

As Officer Rios drove south on San Pedro Street from 7<sup>th</sup> Street, he observed Calloway standing south of the intersection on the east sidewalk near a metal electrical box and verbalized to his partner, *“That’s him.”*<sup>9</sup> Officer Rios conducted another U-turn and positioned their vehicle in a northeast direction facing Calloway, who was standing approximately 36 feet away.<sup>10</sup> Regarding the positioning of their vehicle, Officer Rios stated, *“I then positioned our vehicle in...a position of advantage where we would have the most cover from the suspect if in the event that he was armed with a firearm...”*<sup>11</sup> Officer Rios further explained that he angled their vehicle facing the sidewalk, so that his partner would be able to utilize the passenger door as cover. Both officers immediately exited their vehicle with the intent of making contact with Calloway. Officer Rios indicated he was aware of the arrival of Officers Mata and Bendimez, who also conducted a U-turn and stopped their vehicle to the left of him (Rios).

**Note:** Officer Velasquez stated he placed their unit Code Six via the MDC as they were initially driving north on San Pedro Street. Officer Rios however, believed his partner placed them Code Six just prior to their contact with Calloway. Based upon a review of the incident recall for this radio call, there was no corresponding Code Six MDC transmission or radio broadcast from Officers Rios or Velasquez.

Officers Mata and Bendimez did not notify CD that they were responding to this incident, nor did they go Code Six upon their arrival.

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<sup>9</sup> Officer Rios’ transcribed statement, Page 22, Line 14.

<sup>10</sup> Unless otherwise noted, the distances listed in this report were determined by Department mapping software after an analysis of the available BWV and security videos.

<sup>11</sup> Officer Rios’ transcribed statement, Page 8, Lines 5-9.

According to Officer Rios, he believed Calloway was attempting to hide a firearm as he stood on the corner. He described Calloway as having his left hand over his left pants pocket and his right hand in his waistband area. Officer Rios observed the outline of an object through Calloway's clothing and believed he was armed with a revolver in his front left pocket. Regarding his observations, Officer Rios stated, *"It appeared that he was trying to hide the bulky item with his hands but, it did appear like there was a bulging item and then possibly the cylinder to a revolver and...some sort of handle attached to that."*<sup>12</sup>

**Note:** Calloway later admitted to possessing a black .38 caliber revolver at the time of the incident and indicated he carried it on his left side, inside his pants.

Based on a review of security video from 600 East 7<sup>th</sup> Street, Calloway appeared to be holding a cell phone in his right hand.

Believing that Calloway was armed, Officer Rios stated he exited his vehicle, positioned himself behind his open driver door and unholstered his pistol to a low-ready position. Officer Rios was uncertain if he held his pistol with a one or two-handed grip. However, based on a review of his BWV, it was determined that immediately upon exiting his vehicle, he unholstered his pistol with his right hand and pointed it in Calloway's direction, while simultaneously activating his driver side spotlight with his left hand.

Officer Velasquez advised that prior to exiting his vehicle, he observed Calloway attempt to conceal an item but was not sure what it was. He assumed, based on the comments of their radio call, that the item was probably a handgun. Regarding his observations, Officer Velasquez stated, *"[When] we were at 7<sup>th</sup> and San Pedro and he was in front of the liquor store, I could see that he was trying to hide something. I wasn't sure what exactly...he was hiding, but I knew, based on the comments of the call, that it was probably the handgun that the PR had observed."*<sup>13</sup>

While holding his pistol in his right hand, Officer Velasquez used his right pinky finger to manipulate the interior passenger door latch. As their vehicle came to a stop, Officer Velasquez exited and positioned himself behind his door for cover. He was uncertain if he held his pistol with a one or two-handed grip, but indicated he pointed his pistol at Calloway, because he believed he was armed and posed an imminent threat of serious bodily injury or death.

Both officers stated they gave verbal commands to Calloway, which they believed he heard. Due to there being other bystanders nearby, Officer Velasquez ordered Calloway to face toward a wall that was to the right of him (Calloway) [and south of the bystanders]. According to Officer Velasquez, Calloway looked in his direction and responded, *"Are you talking to me?"* Officer Velasquez replied, *"Yes, I'm talking to*

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<sup>12</sup> Officer Rios' transcribed statement, Page 57, Lines 3-8.

<sup>13</sup> Officer Velasquez' transcribed statement, Page 15, Lines 11-16.

you.”<sup>14</sup> Upon exiting his vehicle, Officer Rios yelled, “*Come over here!*” Calloway disregarded those commands and immediately ran north on the sidewalk and then east on 7<sup>th</sup> Street. Officers Rios and Velasquez initiated a foot pursuit and followed Calloway on the sidewalk.

**Note:** Officer Velasquez’ dialogue with Calloway was not captured on his BWV, because he did not activate it until after the OIS. Officer Velasquez stated that based on the nature of the radio call, he was focused on Calloway and not on activating his BWV. He also indicated he was preoccupied with making sure he and his partner were safe. It should also be noted that neither Officer Velasquez nor Officer Rios activated their DICVS during this incident. Both officers gave a similar explanation, indicating that they were focused on Calloway, whom they believed was a threat to their safety.

According to Calloway, the officers told him to “*stop*” and not to move. He stated he did not follow those commands, because he was “*on drugs*.”<sup>15</sup>



**[Image obtained from video system at 600 East 7<sup>th</sup> Street]<sup>16</sup>**

Officer Rios stated he had a split second to decide whether to get back into his vehicle or chase Calloway on foot. He chose to go in foot pursuit and follow Calloway in

<sup>14</sup> Officer Velasquez’ transcribed statement, Page 13, Lines 6-8.

<sup>15</sup> Calloway’s transcribed statement, Page 8, Lines 19-22.

<sup>16</sup> The time from the Green Market security cameras were noted to be 53 minutes ahead of actual time.

containment mode, due to his awareness that other officers were already at scene. Officer Rios also explained that, because he believed Calloway was armed, he was not trying to apprehend him. His intent was to monitor Calloway's direction of travel and broadcast that information to establish a perimeter. Officer Rios indicated he did not verbalize with Officer Velasquez that he was going in foot pursuit; however, he said he looked back at him and made eye contact to ensure that he was also in foot pursuit.<sup>17</sup> According to Officer Velasquez, he looked at Officer Rios, and due to their past work experience, he believed they were going to chase Calloway on foot. Officer Velasquez indicated they pursued Calloway in containment mode with the intent of keeping him in sight and setting up a perimeter.

**OIG Note No.1:** *When FID asked Officer Rios what he intended to do with Calloway in containment mode, he replied, "So in a perfect world, hopefully he complied before we even put out a perimeter, but that's not what - - that's not what's happening, so I was attempting to get a layout of our - - the area he was running to. My plan was to - - and we didn't get to that point just because of the sudden change of the incident, but was to get a layout of the direction he's heading to and establish a perimeter."<sup>18</sup> When FID asked how he would put that information out, Officer Rios responded, "So, I would have done that over our radio, sir."<sup>19</sup>*

*Officer Rios's BWV shows that the foot pursuit lasted for approximately 30 seconds before the OIS occurred. Although Officer Rios stated that his intent was to monitor Calloway's direction of travel and broadcast the information he observed in order to establish a perimeter, he did not make any radio broadcasts until after the OIS had occurred.*

Body Worn Video depicts both officers running with their pistols in their right hands. Officer Rios explained that he did so because he believed Calloway was armed and posed an "imminent" threat to him. He stated that he did not want to spend time having to unholster his pistol to defend himself if Calloway suddenly chose to turn back in his direction and fire at him. Officer Velasquez gave a similar explanation, and stated he ran with his firearm out so that he would be "ready to engage if need be."<sup>20</sup>

During the foot pursuit, Officer Rios ran in front of Officer Velasquez and maintained a distance of approximately 102 feet behind Calloway. Officer Velasquez was approximately 56 feet behind Officer Rios, who indicated he could hear his partner behind him and believed he was close enough to render aid to him if needed. Officers Rios and Velasquez followed the path of Calloway, running north on the east sidewalk

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<sup>17</sup> Upon initiating the foot pursuit, both officers left their vehicle unsecured.

<sup>18</sup> Officer Rios's transcribed statement, Page 55, Lines 9-17.

<sup>19</sup> Officer Rios's transcribed statement, Page 55, Line 24.

<sup>20</sup> Officer Velasquez' transcribed statement, Page 49, Lines 14-15.

of San Pedro Street, east on the south sidewalk of 7<sup>th</sup> Street and then south on Crocker Street. Officer Rios stated that he did not give any additional commands to Calloway, because he wanted to give Calloway space while maintaining containment mode.

As previously mentioned, Officers Mata and Bendimez stopped their vehicle to the left of the primary unit on San Pedro Street just south of 7<sup>th</sup> Street. According to Officer Bendimez, she observed Officer Rios immediately exit his vehicle and state something to the effect of "*Hey, stop right there.*"<sup>21</sup> Officers Mata and Bendimez then observed Calloway run north on San Pedro Street and east on 7<sup>th</sup> Street, with Officers Rios and Velasquez following behind in foot pursuit.

Officers Mata and Bendimez indicated that they did not know why the officers were chasing Calloway and chose to follow him in their vehicle rather than join the foot pursuit. Although not specifically discussed during this incident, Officer Bendimez stated that she and Officer Mata have had previous discussions regarding tactics and decided they would not engage in a foot pursuit unless they knew exactly why they were chasing someone. Officers Mata and Bendimez drove past Officers Rios and Velasquez and followed behind Calloway in their vehicle as he ultimately turned south on Crocker Street.

Meanwhile, Officers Silos and Martinez were driving east on 7<sup>th</sup> Street approaching San Pedro Street and observed Officers Rios and Velasquez in a foot pursuit. Officer Silos observed that the person they were chasing matched the description of the suspect mentioned in the radio call. They also saw an additional unit ahead of them [Officers Mata and Bendimez] and followed that unit south on Crocker Street. Officer Silos believed the other police vehicle was attempting to intercept the suspect and cut him off (Investigators' Note No. 2).

**Note:** Officers Silos and Martinez did not notify CD that they were responding to the call with Officers Rios and Velasquez, nor did they notify CD of their Code Six location.

Officers Rios and Velasquez each stated that their plan, although not discussed with one another, was to maintain sight of Calloway and contain him in a perimeter. Despite their intent, both officers acknowledged that they did not initiate a broadcast during the foot pursuit to communicate their location or to request additional resources. According to Officer Velasquez, he believed that he did not have time to utilize his radio, because his main focus was to follow Calloway. Both officers indicated they were aware additional units were with them. Officer Rios added that he did not request a backup, because he believed those [two] additional units were sufficient to contain Calloway.

As Officers Mata and Bendimez monitored Calloway while driving south on Crocker Street, they observed that he was holding a shiny object in his hand. According to Officer Bendimez, prior to attempting to contain Calloway, they discussed their

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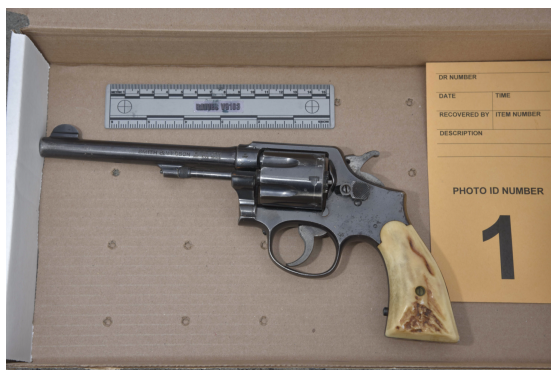
<sup>21</sup> Officer Bendimez' transcribed statement, Page 13, Lines 23-24.

observations and concluded the item was potentially a cell phone. Neither officer indicated they were aware that Calloway was armed.

Officers Mata and Bendimez said that as Calloway continued to run south, they decided to try and contain him. The officers drove past Calloway approximately 79 feet and turned their vehicle to the right, angled toward the west curb. This action caused Calloway to stop and run back north on the west sidewalk. Officers Mata and Bendimez indicated they both exited their vehicle at that point and heard approximately two gunshots. Neither officer indicated they knew who had fired at that point. Officer Bendimez added that just prior to hearing gun-fire she heard Officer Rios say “stop” or “don’t move.”<sup>22</sup>

Meanwhile, as Officers Silos and Martinez drove south onto Crocker Street, they observed Officers Mata and Bendimez driving ahead of them and Calloway running on the west sidewalk with a gun in his right hand. Officer Silos estimated that he was approximately one car length behind Calloway when he made this observation and described the firearm as having a wooden grip with a long silver barrel. Officer Martinez recognized the item as a revolver.

**Note:** Calloway’s firearm was later determined to be a .38 caliber Smith & Wesson six shot revolver.



Officers Silos and Martinez observed Officer Mata turn his vehicle west in what they believed was an effort to block Calloway’s path. They believed this action caused Calloway to turn around and run back north in their direction. According to Officer Martinez, Calloway was now holding the revolver in his left hand. As her partner brought their vehicle to a stop, Officer Martinez observed Calloway continue to run north [on the sidewalk] and eventually became parallel with her side of their vehicle. Officer Martinez feared the situation could escalate to the point where deadly force would be necessary and unholstered her pistol with her right hand. Through her open passenger

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<sup>22</sup> Officer Bendimez’ transcribed statement, Page 23, Lines 1-4.



side window, Officer Martinez then ordered Calloway to “stop running”.<sup>23</sup> Calloway disregarded her command and continued north.

**OIG Note No. 2:** *Officer Martinez stated, “I see the suspect turn around and he’s running back northbound. I then hear - - my partner stops the car and he says - - I didn’t hear him say anything. I hear the door open. So I tell him, “No, no, no, reverse,” because the suspect is pretty much parallel to us by running northbound. And I see the handgun this time on his left hand. I - - at that moment he’s right in front of me, so I can see him. He’s facing northbound, and I draw my gun and I ordered him to stop running. He continues to run.”*<sup>24</sup>

Security video from 727 Crocker Street depicted Officer Silos stop his vehicle in the northbound lane of traffic, approximately 40 feet from where Calloway stopped and changed direction. Officer Silos then drove in reverse approximately 10 feet, before he and Officer Martinez exited and ran north.

Officers Silos and Martinez both indicated that they heard a gunshot while still seated in their vehicle, but they did not know who had fired. Officer Silos stated that he unholstered his pistol while near the rear of his vehicle and held it in a two-handed grip. He added that he saw Officers Rios and Velasquez [north of them] with their weapons unholstered, observed Calloway “on the ground” and then heard one of the officers state, “Drop the gun.”<sup>25</sup>

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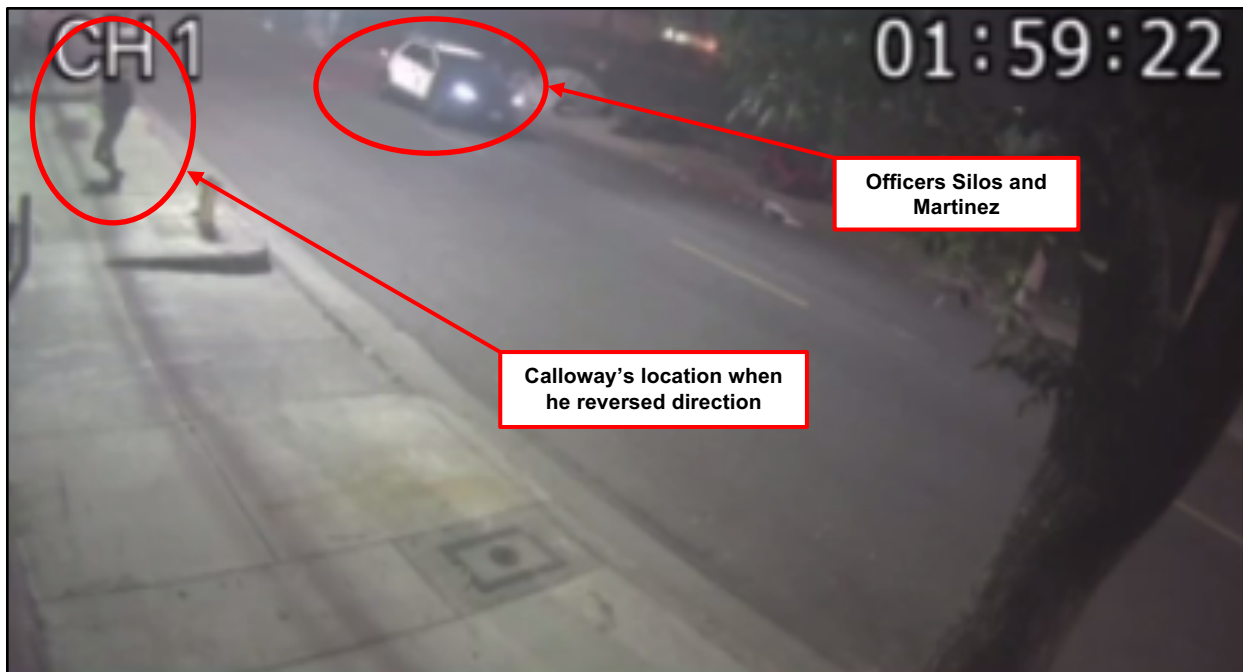
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<sup>23</sup> Officer Martinez’ transcribed statement, Page 12, Line 12.

<sup>24</sup> Officer Martinez’s transcribed statement, Page 12, Lines 3-13.

<sup>25</sup> Officer Silos’ transcribed statement, Page 18, Lines 8-11.





**[Image obtained from video system at 727 Crocker Street]**

Based on a review of BWV, as Officers Rios and Velasquez turned south on Crocker Street, they ran a short distance on the west sidewalk, before transitioning into the street and stopping approximately 118 feet south of 7<sup>th</sup> Street. Officers Rios and Velasquez indicated that as they were turning south on Crocker Street, they briefly lost sight of Calloway. Moments later, they observed Calloway south of them on the west sidewalk. They believed the arrival of the additional units caused Calloway to suddenly stop running south and reverse his direction. According to Officer Rios, Calloway was approximately five to six car lengths ahead of them when he (Calloway) turned and ran back in their direction. Officer Velasquez described the distance as “mid-block.”

**Note:** The investigation determined that Calloway was approximately 155 feet ahead of Officer Rios when he reversed direction.

Body Worn Video depicted Officer Rios raise his firearm with his right hand in a southerly direction as he slowed to a walk and stopped. He then joined his hands together to form a two-handed shooting grip as Calloway continued to run north in his direction on the west sidewalk. Moments later, Officer Velasquez can be seen running up behind Officer Rios while pointing his firearm with his right hand in Calloway’s direction. Officer Velasquez slowed his pace and ultimately stopped a few feet to the left (east) of Officer Rios.

As Calloway continued to run north, Officer Rios stated, “*He has a gun!*” followed immediately after by a command from Officer Velasquez to, “*Get on the fucking floor now!*” Officer Rios then gave a similar command and shouted, “*Get on the floor!*” Calloway continued north on the west sidewalk carrying the gun in his left hand. Approximately one second later, Officer Rios fired one round in a southwest direction.

Calloway continued forward one to two steps and stumbled to the ground, landing on his stomach with his head facing north. Approximately 1.66 seconds later, Officer Velasquez also fired, discharging one round in a southwest direction toward Calloway. Immediately following the OIS, Officer Velasquez momentarily released his two-handed grip on his firearm and activated his BWV.

**Note:** Officer Rios fired his round at approximately 01:59:31 hours. Officer Velasquez fired his round at 01:59:33 hours. Neither round struck Calloway.

As depicted on Officer Rios' BWV, Officer Velasquez momentarily utilized his flashlight to illuminate the west sidewalk and Calloway. This lighting also momentarily illuminated an unknown person sitting against the east wall of the business located at 717 Crocker Street. Both officers acknowledged seeing this individual but did not assess her to be in their immediate background at the time they fired.

**OIG Note No. 3:** *In its review of Officer Rios's and Officer Velasquez's BWVs, the OIG noted that at the time Officer Rios fired his single round at Calloway, the unidentified person sitting against the wall was located behind Calloway; she appeared to be slightly offset to the left of Officer Rios's direct line of fire, as depicted by OIG Note No. 5 below.*

*As Officer Velasquez fired his single round, Calloway's northbound movement had taken him past the unidentified person; she did not appear to be in Officer Velasquez's direct line of fire at the time he fired his weapon.*

**OIG Note No. 4:** *Officer Velasquez did not acknowledge seeing the unidentified individual until after the OIS occurred. When FID asked Officer Velasquez if he knew what was in his background prior to the OIS, he replied, "No, Not prior. I - - once I saw the body worn, and then shortly after the OIS, we acknowledged that there was somebody else there"<sup>26</sup> FID subsequently asked Officer Velasquez if he felt comfortable when he fired his round with the unidentified person being in the background, and he replied, "Like I said, we - - I - - we didn't see her. I didn't see - - I didn't see her."<sup>27</sup> FID then asked, "You did not see that person at all?" Officer Velasquez replied, "I did not see that person. No."<sup>28</sup>*

*Officer Rios was asked by FID, "At the time of the OIS, were you able to determine what your background was prior to the shooting?" Officer Rios*

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<sup>26</sup> Officer Velasquez's transcribed statement, Page 38, Lines 21-23.

<sup>27</sup> Officer Velasquez's transcribed statement, Page 39, Lines 12-16.

<sup>28</sup> Officer Velasquez's transcribed statement, Page 39, Lines 18-20.

*replied, "I just saw a wall and a fence, sir."<sup>29</sup> FID then asked Officer Rios about the presence of tents in the area, and Officer Rios stated, "There was, sir, but I wasn't shooting in that direction. I was at an angle."<sup>30</sup> FID confirmed with Officer Rios that he had viewed his BWV footage and asked if he was aware of the unidentified person sitting along the wall that he had indicated as being in his shooting background. Officer Rios replied, "I - - at the time of the OIS, I saw a figure. I knew that this person was not immediately behind the suspect who I was firing upon."<sup>31</sup> FID then asked, "So you were - - when you fired, you felt that the angle was sufficient that that citizen was not in a direct line of fire then?" Officer Rios answered, "That's correct sir."<sup>32</sup>*

According to Officer Rios, when he first observed Calloway turn and run back in his direction, he was holding what looked like a revolver with a shiny metallic barrel in his left hand. In an effort to de-escalate the situation, Officer Rios stopped running to give himself more time [to react] and to create distance between himself and Calloway.

Officers Rios and Velasquez both advised that once they turned the corner onto Crocker Street, they did not believe they had any cover to utilize. According to Officer Rios, he looked for vehicles or other hard barriers in the area to move to, but he did not notice any. Officer Rios also stated he believed it would have been unsafe to re-deploy, because it would have necessitated turning his back to Calloway.

**Note:** As depicted on Officer Rios' BWV, there was a telephone pole approximately 11 feet southwest from his position at the time he stopped running.

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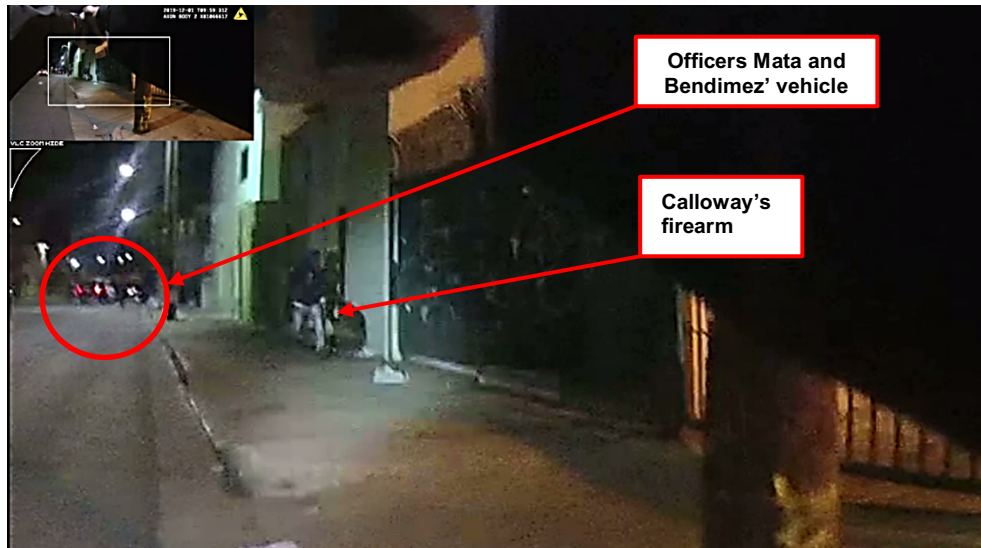
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<sup>29</sup> Officer Rios's transcribed statement, Page 51, Line 20.

<sup>30</sup> Officer Rios's transcribed statement, Page 51, Line 25 to Page 52, Line 2.

<sup>31</sup> Officer Rios's transcribed statement, Page 52, Lines 10-12.

<sup>32</sup> Officer Rios's transcribed statement, Page 52, Line 16.



**[Still image (zoomed and lightened) from Officer Rios' BWV]**

It appeared to Officer Rios that Calloway was manipulating the gun in some fashion, while holding it with both hands on his left side. Officer Rios stated that he only had a fraction of a second to determine if the object in Calloway's hand(s) was in fact a firearm. As Calloway continued to run north, he became illuminated by an overhead streetlight. Officer Rios said it was at that point he was able to determine that the object held by Calloway was a firearm.

Officer Rios said he verbalized to his partner that Calloway had a gun, and then ordered Calloway to "Stop." Despite this command, Calloway continued toward him and began raising his gun from "mid-waist" level, upward to an approximate 45-degree angle. Officer Rios believed Calloway was in the process of pointing the gun at him and was rapidly closing the distance between them. Officer Rios estimated that at the pace Calloway was running, he would have reached his (Rios') position within approximately two seconds.

**Note:** Based on a review of Officer Rios' BWV, no command for Calloway to stop was given.

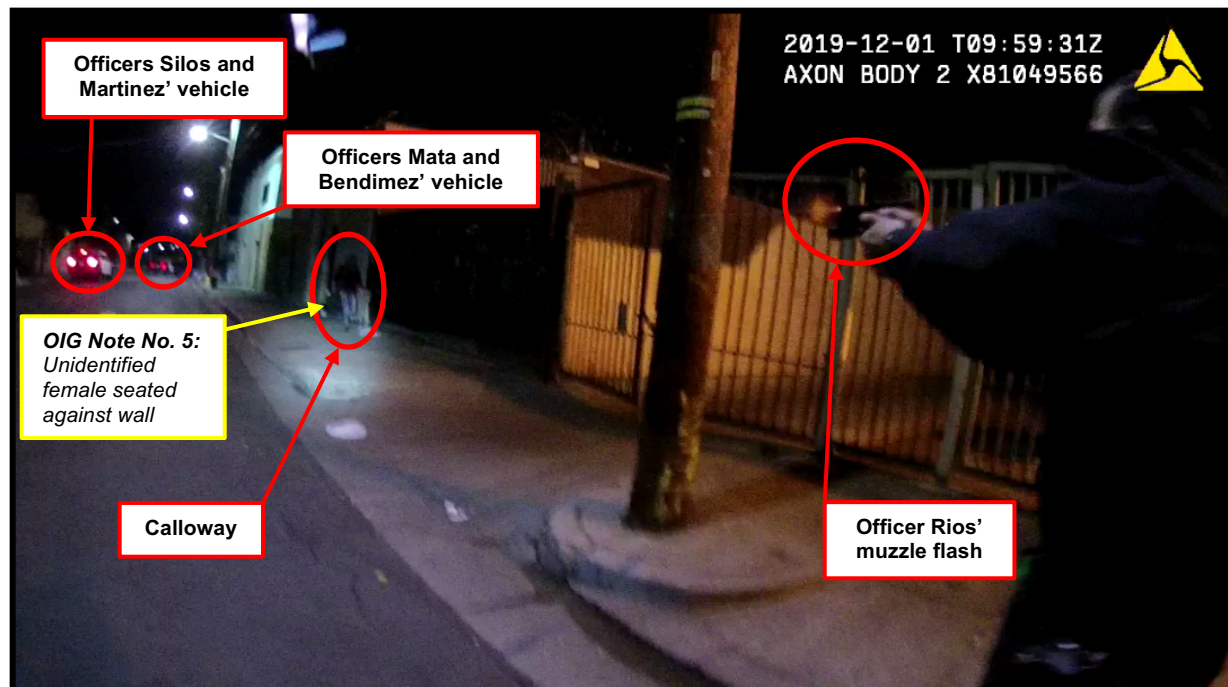
Believing that Calloway was about to shoot and/or seriously injury him or his partner, Officer Rios stated he utilized a two-handed Weaver stance and fired one round in a southwesterly direction toward Calloway, from a distance of approximately three car lengths.

**Note:** The investigation determined the distance to be approximately 54 feet.

Regarding his decision to use deadly force, Officer Rios stated, *"I see a firearm in his left hand. It was a shiny metallic like barrel, don't know the color. It appeared to be a*

revolver just because of the cylinder.”<sup>33</sup> “It appeared that it was like mid-waist and coming up, and then that’s when I fired my weapon.”<sup>34</sup> “I believed my life was in imminent threat, that’s when I placed my sights in the center mass of the suspect and fired one round.”<sup>35</sup>

Officer Rios believed Officer Velasquez fired one round at the same time he did and observed Calloway fall to the sidewalk. Officer Rios conducted an assessment at that point and chose not to fire a second round, because he believed Calloway had been struck by gunfire and was no longer a threat.



**[Image from Officer Velasquez' BWV depicting the moment Officer Rios fired]**

According to Officer Velasquez, as Calloway approached the building of 719 Crocker Street, he observed Calloway holding a “white metal revolver” in his right hand. Officer Velasquez ordered Calloway to “Get on the fucking floor!”<sup>36</sup> He recalled hearing his partner give a similar command of “Get on the floor!” Officer Velasquez noted that Calloway’s arms originally swung back and forth as he ran. However, as Calloway approached 719 Crocker Street, Officer Velasquez observed Calloway raise his right arm straight out in front of him to about mid-chest level and point his gun at him (Velasquez) and Officer Rios. Officer Velasquez indicated he then heard a gunshot and saw muzzle flash and believed Calloway had shot at them from a distance of

<sup>33</sup> Officer Rios’ transcribed statement, Page 41, Lines 20- 21.

<sup>34</sup> Officer Rios’ transcribed statement, Page 45, Lines 10-11.

<sup>35</sup> Officer Rios’ transcribed statement, Page 48, Lines 2-4.

<sup>36</sup> Officer Velasquez’ transcribed statement, Page 35, Line11.



approximately 20 to 25 feet. Fearing for his life, Officer Velasquez responded by firing one round in a southerly direction at Calloway, while using a two-handed shooting stance.

Regarding his decision to use deadly force, Officer Velasquez stated, *"The suspect is running, and with the revolver in his right hand, actually points it towards me and my partner. At which point, I just, I start to think that I might not see my family no more, because he's closing the distance. I don't even have time to basically give him any commands. And then...I just see his gun facing me, and I hear him shoot. At which point, fearing for my life and safety of myself and my partner, I shoot back at him."*<sup>37</sup> Officer Velasquez observed Calloway collapse to the ground but indicated his revolver was no longer visible.

**Note:** The investigation determined that Officer Velasquez fired at Calloway from a distance of approximately 44 feet. The gunshot Officer Velasquez heard and attributed to Calloway was fired by Officer Rios. Calloway did not discharge a firearm during this incident.



**[Still image (lightened) from Officer Rios BWV]**

Calloway acknowledged that he heard the officers' initial commands to stop, but he ran because he believed his gun was exposed and was observed by the officers. Calloway stated that it was the arrival of a police vehicle, as he was running on Crocker Street, which caused him to stop and change the direction. Calloway admitted that after he turned and ran in the direction of the officers, he removed his gun from his pants and

<sup>37</sup> Officer Velasquez' transcribed statement, Page 14, Lines 6-16.

held it in his hand as he prepared to throw it. Calloway believed the officers fired beanbag rounds in the air to scare him. Once the officers fired, he dropped the gun and fell to the ground. Regarding his actions, Calloway stated, *"When I was running towards them, they said, get on the ground. That's when I was running a little bit more close to them. They shot the shit in the air, like I told you. I dropped the shit and I ducked."*<sup>38</sup>

At 0159:37 hours, Officer Rios broadcast on Newton Frequency, *"13A9 shots fired, Officer needs help."* Communications Division in turn simulcasted the help call on Central Bureau Frequencies.<sup>39</sup> Seconds later, Officers Mata, Bendimez, Silos and Martinez approached Officers Rios and Velasquez from the east side of Crocker Street. Officer Mata unholstered his pistol at that point, indicating that he did not know who had fired and believed the situation could escalate to the point where deadly force would be justified. Officer Rios directed the officers to update his location and to set up an arrest team. At 02:00:00 hours, Officer Bendimez initiated a broadcast to CD and advised that their location was 7<sup>th</sup> and Crocker. She stated that she then unholstered her pistol, because she feared the situation could lead to the use of deadly force.

As Calloway laid on his stomach with his head in a northerly direction, Officer Rios ordered him not to reach for anything and to place his hands on his head. Once Calloway complied, Officer Rios told him not to move. As Officer Rios and the other officers at scene began to walk toward Calloway, Officer Rios stated that he would "cover" and directed Officer Silos to handcuff Calloway. Officer Silos acknowledged Officer Rios and holstered his pistol.

As Officer Silos approached Calloway, he stated, *"Don't touch shit. Don't fucking move."* He then grabbed Calloway's right wrist from behind his head and moved it behind his back. After securing a handcuff to Calloway's right wrist, Officer Silos asked Calloway for his left hand. When Calloway complied, Officer Silos secured both of his wrists behind his back and completed the handcuffing (Investigators' Note No. 3).

**Note:** Officer Velasquez believed Officer Martinez also participated in handcuffing Calloway.

As Calloway was being taken into custody, Officer Rios asked him if he had been struck by gunfire, to which he replied, *"No."* Officer Silos conducted a pat-down search of Calloway and confirmed that he was no longer armed and that he did not appear to have been injured. The other officers at scene holstered their pistols at that point and began the necessary tasks to contain the scene and protect the evidence.

**Note:** As the officers were making their approach to take Calloway into custody, Officer Velasquez' BWV inadvertently became dislodged and fell to the ground. Approximately one minute and 20 seconds later, Officer

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<sup>38</sup> Calloway's transcribed statement, Page 12, Lines 23-25.

<sup>39</sup> The referenced time of Officer Rios' broadcast was obtained from his BWV and not from CD.

Mata picked up the camera and affixed it back onto the front of Officer Velasquez' uniform shirt.

At approximately 0201 hours, Newton Patrol Division uniformed Police Officers II Brandon Vildosola, Serial No. 42478, and Kevin Ruiz, Serial No. 42706, Unit 13E1, arrived at scene. Officer Vildosola broadcast that Calloway was in custody and requested a Rescue Ambulance (RA), because he mistakenly believed he had been shot.<sup>40</sup> Officer Silos then placed Calloway into the back seat of Officers Vildosola and Ruiz' police vehicle (Shop No. 80740).

Officer Rios stated that he observed Calloway's revolver on the ground near a black metal gate, inches from Calloway's left foot. Officer Velasquez stated that he did not see the firearm until Calloway was in custody and was moved away from the location. He then observed the firearm by the same black metal gate. Officer Velasquez stood by the firearm until he was relieved by Officer Vildosola.<sup>41</sup>

At approximately 0202 hours, Central Patrol Division uniformed Sergeant I Ruby Aguirre, Serial No. 39852, arrived at scene and met with Officers Rios and Velasquez, who identified themselves as being involved in the OIS. Sergeant Aguirre separated Officers Rios and Velasquez and admonished them to not talk about the incident and directed other officers to set up crime scene tape to secure the area. She monitored Officers Rios and Velasquez until Newton Patrol Division uniformed Sergeant I Juan Lobo, Serial No. 39766, arrived at approximately 0204 hours.

Sergeant Lobo assumed the role as Incident Commander but did not broadcast that information. Sergeant Lobo monitored both officers until Newton Area Sergeant I Christopher Burke, Serial No. 36665, arrived at approximately 0205 hours. Sergeant Lobo obtained a Public Safety Statement (PSS) from Officer Velasquez and Sergeant Burke obtained a PSS from Officer Rios.<sup>42</sup> Sergeants Lobo and Burke ensured that both officers remained separated and monitored.

**Note:** According to Sergeants Lobo and Burke, Officers Rios and Velasquez indicated that they each fired one round in a southerly direction. The physical inspection of their firearms, along with the evidence collected at scene, was consistent with both officers having fired one round during this incident.

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<sup>40</sup> Officers Vildosola and Ruiz arrived after Calloway had been taken into custody and were determined not to be percipient witnesses. They were not interviewed for this investigation.

<sup>41</sup> Officer Bendimez advised that after the suspect was in custody, she realized her vehicle might have been left unlocked. Body Worn Video depicted both the driver and front passenger doors of her vehicle open. Officer Bendimez moved her vehicle closer to the crime scene by driving it 83 feet north from its original location and secured it in the roadway.

<sup>42</sup> Sergeant Lobo recorded a portion of Officer Velasquez' PSS on BWV until he was advised by Sergeant Burke to stop recording.



While in the back seat of Shop No. 80740, Calloway was able to manipulate his arms and move his handcuffs from his back to his front.<sup>43</sup> Once Sergeant Lobo was made aware of Calloway's actions, he directed Officer Sosa to remove Calloway from the vehicle and re-handcuff his arms behind his back.<sup>44</sup> Sergeant Lobo then directed Officers Silos and Martinez to transport Calloway to Newton Station (Investigators' Note No. 4).

Force Investigation Division Detective II Jerry Sally, Serial No. 36130, reviewed the documents and circumstances surrounding the separation, monitoring and admonition to the officers not to discuss the incident prior to being interviewed by FID investigators (Addendum No. 2) (Investigators' Note No. 5).

### **Scene Description**

The 700 block of Crocker Street is a north/south roadway with a single lane of traffic in each direction with vehicle parking along the east and west curbs. The area consisted primarily of commercial businesses that were closed at the time of the incident. The roadway measured approximately 39 feet wide with a sidewalk on each side measuring approximately 10 feet.

The OIS occurred on the west side of the roadway, north of 717 Crocker Street and approximately 118 feet south of 7<sup>th</sup> Street. The environmental conditions at the time of the OIS were dry with clear skies. The incident occurred during nighttime hours with the nearest streetlight located approximately 11 feet southwest of the OIS location.

### **Canvass For Witnesses**

On December 1, 2019, FID and Newton Division personnel conducted an initial canvass for witnesses to the OIS. Later that same day, FID investigators conducted an additional canvass of the 700 block of Crocker Street. Unless otherwise noted, the statements of all witnesses were recorded and transcribed and are contained in this report. Two "Heard Only" witnesses were located during the canvass. The witnesses heard what they believed to be two gunshots. Copies of their statement forms were retained in the FID casebook and are available for review.

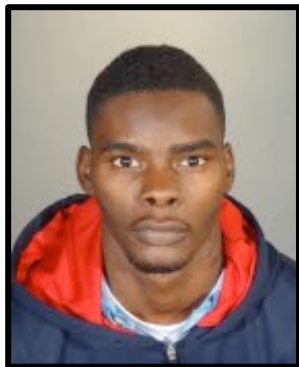
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<sup>43</sup> Gleaned from DICV at 0216:20 hours.

<sup>44</sup> Officer Sosa and his partner Officer Pimentel were determined not to be a percipient witness in this investigation and were not interviewed.

## Suspect Information



Lonyea Calloway was a male Black, with black hair and brown eyes and a date of birth of February 14, 1998. At the time of the incident, he was six feet tall and weighed approximately 150 pounds. Calloway was identified by CII No. A35942653 and California Driver License No. Y3831733. He was not documented as a gang member and was not the subject of any Mental Evaluation Unit contacts. Calloway had three prior arrests and one conviction for 245(a)(4) of the California Penal Code (PC) Assault with a Deadly Weapon (ADW). He was on summary probation for that offense at the time of the OIS (Addendum No. 3).

On December 1, 2019, Calloway was arrested for Section 245(d)(1) PC, ADW on a Peace Officer with a Firearm, under Los Angeles County Booking No. 5811921 (Addendum No. 4).

A Los Angeles Police Department Investigative Report (IR) for ADW was completed by FID detectives, listing Officers Rios and Velasquez as the victims and Calloway as the suspect (Addendum No. 5).<sup>45</sup>

On December 1, 2019, FID Detectives II Gerald McCarty, Serial No. 31125, Ubaldo Zesati, Serial No. 30078, and Timo Illig, Serial No. 36893, interviewed Calloway. Calloway waived his Miranda Rights and admitted to possessing the gun and attempting to discard it as he ran toward the officers. Calloway's transcribed statement was incorporated in this report.

On December 3, 2019, FID Detective II Frank Alvelais, Serial No. 30865, presented this case to Deputy District Attorney Jennifer Turket, who filed two counts of 245(d)(1) PC, ADW on a Police Officer with a Firearm, Case No. BA48299801. As of the date of this report, Calloway was still awaiting his Preliminary Hearing.

On December 9, 2019, Detective Alvelais completed a Follow-Up Investigation Report for the above listed crime with a Case Status of Cleared by Arrest (Addendum No. 6).

## Injuries

Los Angeles Fire Department (LAFD) Engine No. 9, staffed by Firefighters Loren Clements, Colton Berkley, Elliot Ibanez and Brian George, received the alarm to respond to 620 East 7<sup>th</sup> Street. Rescue Ambulance No. 209, staffed by Firefighter/Paramedics Ryan Quigley and Joe Giesregen, also responded and attempted to examine Calloway, but he refused.

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<sup>45</sup> DR No. 1913-23130 (Velasquez), DR No. 1913-23133 (Rios).

## **Evidence**

On December 1, 2019, at approximately 0653 hours, Forensic Science Division (FSD) Firearms Analysis Unit (FAU) Supervising Criminalist III Rafael Garcia, Serial No. G9120, and Criminalists II Dyna Shirasaki, Serial No. N4504, and Matthew Saucedo, Serial No. N4688, responded and conducted an examination of the OIS scene for ballistic impacts, trajectories, and projectiles. Thirty-one items of evidence were booked in conjunction with this investigation. Included in those items were discharged 9mm cartridge cases and a .38 caliber Smith & Wesson revolver. All of the evidence recovered during this investigation was booked under DR No. 1913-23133 (Addendum No. 7).

## **Weapons**

**Lonyea Calloway** was armed with a blued .38 caliber Smith & Wesson six shot revolver, Serial No. 702969 (Item No. 17). The length of the barrel was approximately six inches. The revolver was loaded with five live cartridges in the cylinder (Item No. 18). One of the chambers of the cylinder was empty. The revolver was recovered from the sidewalk in front of 717 Crocker Street and was found lying on its left side, muzzle pointing north, and with the hammer in the forward position (Addendum No. 8).

The Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) Tracing Center conducted a firearm trace on Calloway's revolver. The ATF summary of results determined the revolver was made prior to the Gun Control Act of 1968 and therefore, no trace information was available (Addendum No. 9).

Gang and Narcotics Division Detective II James Kaiser, Serial No. 27938, contacted the Smith & Wesson Corporation and found that the revolver was manufactured in 1940 and shipped to the British Military in support of the war effort. Further investigation revealed the revolver was last voluntarily registered with the Los Angeles Police Department on March 2, 1965, by Roland Anderson with a partial address of 5305 McKinley.

**Officer Rios** was armed with a Department-approved 9mm Glock, Model 17 semiautomatic pistol. The pistol was carried in a Department-approved holster. According to Officer Rios, at the time of the OIS, his pistol was loaded to capacity with 18 rounds of Department-authorized ammunition. Seventeen rounds were in the magazine and one round was in the chamber.

On December 1, 2019, FID Sergeant II Jess Falk, Serial No. 38231, conducted a post-OIS examination of Officer Rios' pistol and magazines. He determined the pistol was loaded with one round in the chamber and 16 rounds in the magazine. Officer Rios possessed two additional magazines, each containing 17 rounds of Department-authorized ammunition. All of Officer Rios' ammunition was Department-approved Speer LE Gold Dot G2, 9mm Luger, 147 grain. The physical inspection of his pistol and

magazines established that he fired one round, which was consistent with the number of discharged cartridge casings collected at scene.

On December 19, 2019, FSD FAU Criminalist II Jacob Seror, Serial No. N4571, finalized a laboratory report documenting the test fire examination of Officer Rios' pistol. The pistol was found to be functional and the trigger pull value was within the range established by the Department (Addendum No. 10).

On February 2, 2020, Detective Sally verified that Officer Rios' 9mm Glock pistol was entered into the Firearm Inventory Tracking System (FITS) on November 12, 2019.

**Officer Velasquez** was armed with a Department-approved 9mm Glock, Model 17 semiautomatic pistol. The pistol was carried in a Department-approved holster. According to Officer Velasquez, at the time of the OIS, his pistol was loaded to capacity with 18 rounds of Department-authorized ammunition. Seventeen rounds were in the magazine and one round was in the chamber.

On December 1, 2019, Sergeant Falk conducted a post-OIS examination of Officer Velasquez' pistol and magazines. He determined the pistol was loaded with one round in the chamber and 16 rounds in the magazine. Officer Velasquez possessed two additional magazines, each containing 17 rounds of Department-authorized ammunition. All of Officer Velasquez' ammunition was Department-approved Speer LE Gold Dot G2, 9mm Luger, 147 grain. The physical inspection of his pistol and magazines established that he fired one round, which was consistent with the number of discharged cartridge casings collected at scene.

On February 12, 2020, Criminalist Seror finalized a laboratory report documenting the test fire examination of Officer Velasquez' pistol. The pistol was found to be functional and the trigger pull value was within the range established by the Department (Addendum No. 11).

On February 2, 2020, Detective Sally verified that Officer Velasquez' 9mm Glock pistol was entered into FITS on February 27, 2019.

On March 9, 2020, FSD FAU Criminalist II Annette Woiwode, Serial No. N4427, completed a Cartridge Case Comparison Report. The report concluded that the discharged cartridge casings (Item No. 19 -Velasquez) and (Item No. 20 -Rios) recovered at the OIS scene matched Officer Rios and Velasquez' test fired discharged casings (Item Nos. 28 and 24 respectively) (Addendum No. 12).

## **Firearms Analysis**

Criminalists from FSD FAU identified two primary bullet pathways.

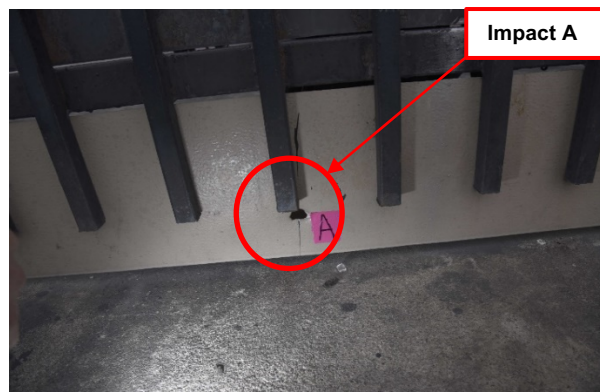
**Impact A** was a perforating impact to the sheet metal gate at 717 Crocker Street.  
**Impact A1** was a non-penetrating impact located on the sidewalk in front of 717

Crocker Street. The Pathway for **Impact A** and **A1** was consistent with a bullet traveling from north to south, east to west and in a downward direction.

**Impact B** was a non-penetrating impact to the brick wall at the entryway of 719 Crocker Street. The pathway for **Impact B** was consistent with a bullet traveling from north to south. No further directionality could be determined due to the condition of the impact (Addendum No. 13).



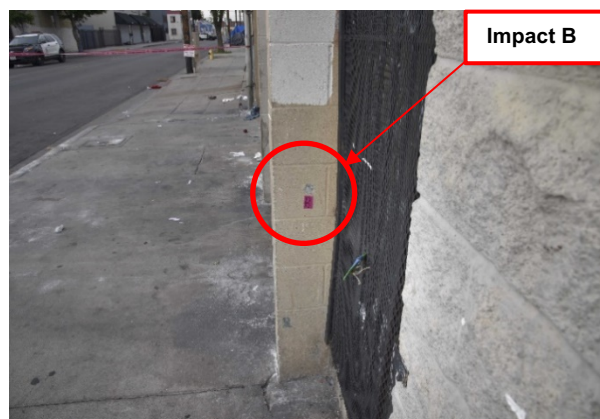
**Photograph of 717/719 Crocker Street**



**Close-up of Impact "A"**



**Close-up of Impact "A1"**



**Close-up of Impact "B"**

**OIG Note No. 6:** The photograph above labeled, "Photograph of 717/719 Crocker Street" appears to indicate an incorrect location for Impact B. Based on the evidence gathered by FID in this investigation, including the photograph above labeled, "Close-up of Impact 'B'", it appears that Impact B was located further south than where it is currently indicated in "Photograph of 717/719 Crocker Street". Specifically, Impact B was located on the north-facing edge of the wall that is immediately south of the first entryway to the south of the entryway where the impact is currently indicated as being located.

On October 22, 2020, the OIG brought this issue to the attention of FID, which indicated that it will issue a supplemental report to address the matter.

On December 12, 2019, Criminalist Saucedo collected biological material from Calloway's revolver and live cartridges. On March 20, 2020, FSD Criminalist II Randy Zepeda, Serial No. N3358, finalized a report detailing the analysis of the biological material obtained from the aforementioned items. The analysis concluded that there were three deoxyribonucleic acid (DNA) profiles obtained from the revolver, Calloway's profile being one of them. The other two profiles were from unknown individuals (Addendum No. 14).

On January 17, 2020, Technical Investigation Division (TID) Forensic Print Specialist III Maria Brion, Serial No. G8280, examined Calloway's revolver and live cartridges for fingerprints. No latent prints were developed (Addendum No. 15).

On March 20, 2020, Criminalist Seror completed a report memorializing the examination and test firing of Calloway's pistol. He determined that the revolver functioned as designed (Addendum No. 16).

## **Visual Documentation**

### **Digital In-Car Video System**

Following this incident, there were 30 units that responded to the scene from Newton, Central and Hollenbeck Divisions. Of those units, DICV footage from 28 units were located and reviewed by FID investigators. The DICV footage from these units captured their response to the help call and crime scene activity (post-OIS). None of the footage provided additional investigative value (Investigators' Note No. 6).

### **Body Worn Video**

All of the officers involved in this incident were equipped with BWV cameras.

Officer Rios activated his BWV camera when he exited his vehicle. The footage captured portions of Calloway's actions as well as Officer Rios' movements and audio during the OIS.

Officer Velasquez activated his BWV after the OIS. Although he was delayed in his activation, his BWV footage captured portions of Calloway's actions as well as Officer Velasquez' movements without audio.

Officers Mata, Bendimez, Silos and Martinez were delayed in the activation of their BWV. Footage from their BWV captured their movements and actions after the OIS.

Force Investigation Division investigators identified the BWVs of 67 officers related to this incident. The BWVs of the 13 officers mentioned in this administrative summary were reviewed in detail.

The BWVs of the remaining 54 officers were evaluated and determined not to have captured the OIS or have any investigative value. They were not evaluated for BWV deviations. These BWVs have been added to Evidence.com under Case No. F056-19 and remain available for review by the involved Command.

The BWVs of the officers mentioned in the administrative summary were additionally reviewed for compliance with the Office of Constitutional Policing and Policy Notice entitled, Powering Off Body-Worn Camera Devices While in Department Facilities, dated December 20, 2018, as well as compliance with section 3/579.15 of the Department Manual – Objectives of Body-Worn Video. The following videos may be out of compliance for the reason indicated (Investigators' Note No. 7).

Officer	Reduced Buffer	Late Activation
Police Officer II Franco Velasquez #42563		X
Police Officer II Juan Mata #40829	0 seconds	X
Police Officer II Kim Bendimez #41901		X
Police Officer II Steven Silos #42869	3 seconds	X
Police Officer II Johanna Martinez #42439	17 seconds	X
Police Officer II David Sosa #42449	83 seconds	X
Police Officer II Francisco Pimentel #42445	No Video	No Video
Police Officer II Brandon Vildosola #42478	0 seconds	
Police Officer II Kevin Ruiz #42706	6 seconds	
Sergeant I Ruby Aguirre #39852	No Video	No Video

### News Media

Following this incident, the KTLA 5 news agency aired a news story that contained video footage filmed post-OIS. The news footage was vaulted under Media No. 729464.

### Social Media

Police Officer II John Sewell, Serial No. 36614, assigned to FID's Cyber Unit, monitored social media sites, including YouTube, Facebook, and Twitter, from the date of the incident until the submission of this investigative report. No social media posts were found.

### Other Department Video

None

## Outside Video

There was a total of 12 outside videos obtained related to this incident, all of which were reviewed in their entirety by FID investigators and were subsequently vaulted at TID Electronics Section.

Five security videos captured portions of Calloway's actions at 1242 East 7<sup>th</sup> Street where the radio call originated. Those video cameras were mounted on the interior and exterior of the apartment complex. The video system was a continuous recording camera and did not include sound.

Seven security videos were located that captured portions of the incident near the area of the OIS. Those cameras were mounted to various businesses and did not include sound. Those video systems were continuous recording cameras.

Location and Number of Cameras	Media No.	Location and Number of Cameras	Media No.
1242 E. 7 <sup>th</sup> Street (3)	752408	727 Crocker Street (1)	729463
1242 E. 7 <sup>th</sup> Street (2)	752409	612 E. 7 <sup>th</sup> Street (2)	752406
600 E. 7 <sup>th</sup> Street (4)	752407		

## Photographs

On December 1, 2019, TID Photographer III Gary Glade, Serial No. V9609, responded and photographed the OIS scene, the involved officers and the associated evidence. The photographs were stored under Digital Control Nos. 0771395 and 0771398.

## Notifications

On December 1, 2019, at approximately 0245 hours, the Department Operations Center received the initial notification of the incident by Newton Patrol Division Captain I Hamed Mohammadi, Serial No. 36506. The details of the subsequent notifications are attached (Addendum No. 17).

## Personnel At Scene

Force Investigation Division Detective II Michael Arteaga, Serial No. 32722, was the first FID personnel at scene at approximately 0358 hours. Crime scene logs documenting additional personnel who responded are contained within the FID case file and are available for review.

## Communications

A copy of the CD computer-generated Incident Recall printout associated with this occurrence, Incident No. 19120100000382, is on file at FID. A digital recording of Newton Division Base Frequency spanning the time of this incident was stored at FID.



The digitally recorded interviews of the involved and percipient officers and the civilian witnesses were stored in the LAPD Training Evaluation and Management System (TEAMS II) database.

### **Justice System Integrity Division (JSID)**

This case did not meet the criteria for presentation to the Justice System Integrity Division of the Los Angeles County District Attorney's Office.

### **Investigators' Notes**

1. The Premier One operating system for MDC applications began October 22, 2019. Force Investigation Division investigators were advised by Senior Police Service Representative Todd Austin, Serial No. N1271, that if a patrol unit was not originally assigned a particular radio call, locating the corresponding Incident Recall was a multi-step process that could take an average of two to three minutes.
2. Video footage from a security camera mounted on the south side of 600 East 7<sup>th</sup> Street recorded Officers Silos and Martinez as they drove east on 7<sup>th</sup> Street in the No. 1 lane of traffic. As their vehicle drove through the intersection with San Pedro Street, it did so during the red tri-light phase for east and westbound traffic.
3. Force Investigation Group Commander Timothy Nordquist, Serial No. 35492, notified the concerned Office Director via e-mail regarding the profanity utilized by Officers Velasquez and Silos during this incident.
4. Although Officers Silos and Martinez were percipient witnesses to the OIS, Sergeant Lobo directed them to transport Calloway to Newton Station. When interviewed, Sergeant Lobo explained that he was not aware Officers Silos and Martinez were witnesses when he ordered them to transport Calloway. Officer Silos moved their vehicle from its original position at the time of the OIS in order to facilitate transporting Calloway.

Officers Silos and Martinez were present at the time of the OIS and when Calloway was taken into custody. However, they did not advise the responding supervisors that they had been present. It was not until after they had transported Calloway to Newton Station that they were identified as percipient witnesses and were admonished and monitored.

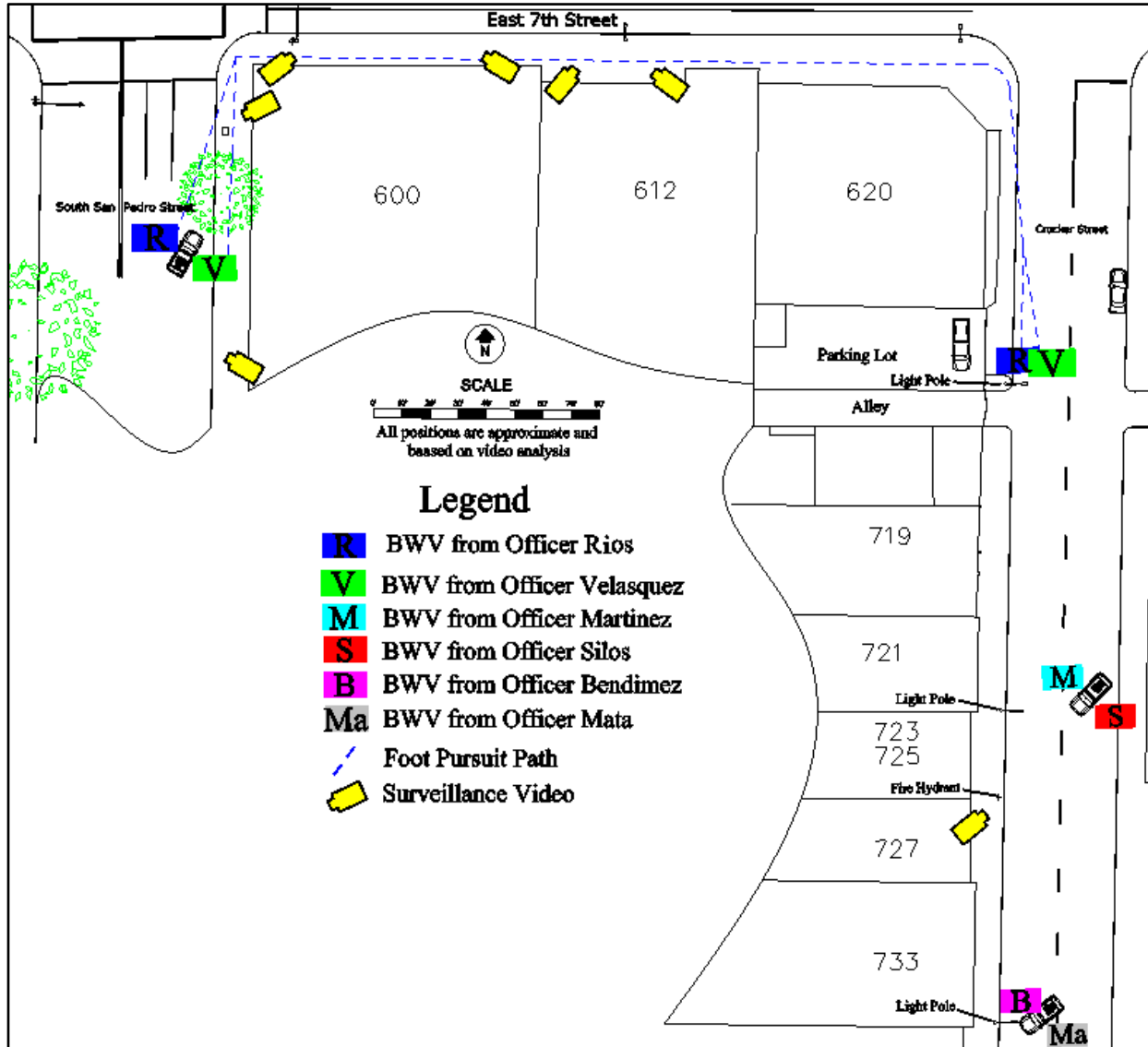
5. Once Officer Bendimez identified herself and Officer Mata as witnesses, Sergeant Lobo advised them that they needed to be separated. Sergeant Burke then escorted them north on Crocker Street to 7<sup>th</sup> Street. Prior to being advised not to discuss the incident by Sergeant Lobo, Officers Bendimez and Mata were depicted on BWV talking about their actions and seeing Calloway running with a possible phone. Sergeant Lobo was standing nearby and approached the officers and

reminded them that they needed to remain separated. Officer Bendimez jokingly stated to him that she was talking about the “Dodgers”. Sergeant Lobo reminded them that there were other cameras in the area potentially recording their interaction.

6. The following officers did not activate their DICVS upon their initial approach of Calloway or while following behind him as he fled on foot: Officers Rios, Velasquez, Mata, Bendimez, Silos and Martinez. On May 18, 2020, Commander Nordquist notified the concerned Office Director via e-mail regarding this issue.
7. Force Investigation Division investigators determined that nine officers and one sergeant mentioned in this administrative summary were out of compliance with BWV policy. Officers Velasquez and Bendimez activated their BWV late. Officers Mata, Silos and Martinez had reduced BWV buffers and activated their BWV late. Officers Sosa, Ruiz and Vildosola had reduced BWV buffers. Officer Pimentel and Sergeant Aguirre did not activate their BWV. Commander Nordquist notified the concerned Office Director via e-mail regarding this issue.

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## Diagram



## **CHIEF OF POLICE REPORT<sup>46</sup>**

### **Chief of Police Findings**

**Tactics** – Administrative Disapproval, Officers Rios, Velasquez, Mata, Bendimez, Silos and Martinez.

**Drawing/Exhibiting** – In Policy, No Further Action, Officers Rios, Velasquez, Mata, Bendimez, Silos and Martinez.

**Lethal Use of Force** – In Policy, No Further Action, Officer Rios and Officer Velasquez.

### **Chief of Police Analysis**

#### **Detention**

- An unknown male called 911 to report that a male, Black, wearing light blue jeans wearing a backpack, was pointing a handgun at people near The Rivers apartments. The suspect (later identified as Calloway) was walking on 7<sup>th</sup> Street towards San Pedro Street. As Officers Rios and Velasquez drove east on 7<sup>th</sup> Street, they observed a male matching the description of Calloway. Officer Velasquez immediately noticed that Calloway was grabbing his waistband area and noticed that Calloway increased his pace and looked back in their direction. Officer Rios made a similar observation and added that Calloway appeared to have a large bulky item, possibly a handgun, in his left front pocket. Officers Rios and Velasquez repositioned their police vehicle to make contact with Calloway, exited their police vehicle, and attempted to give Calloway commands. Calloway ignored the commands and ran away from the officers, resulting in a foot pursuit. As Officers Mata, Bendimez, Silos and Martinez approached Calloway in their police vehicles, Calloway stopped, changed directions, and ran back towards Officers Rios and Velasquez. When Calloway approached Officers Rios and Velasquez, Officers Rios and Velasquez observed Calloway holding a handgun in his left hand and gave Calloway commands to get on the floor. Calloway ignored the officers' commands and continued to run towards Officers Rios and Velasquez, resulting in an OIS. The officers' decision to attempt to detain and take Calloway into custody were appropriate and within Department policies and procedures.

#### **Tactics**

- Department policy relative to a Tactical Debrief is: *"The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance."*

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<sup>46</sup> The information provided in this section summarizes the analysis and findings set forth in the Chief of Police's report for this case.

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

## **Tactical De-Escalation**

- *Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.*

### *Tactical De-Escalation Techniques*

- **Planning**
- **Assessment**
- **Time**
- **Redeployment and/or Containment**
- **Other Resources**
- **Lines of Communication** (*Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques.*)

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

**Planning** – According to both Officers Rios and Velasquez, they had been assigned as partners for approximately a year and a half and had numerous conversations regarding a variety of tactical scenarios that included the topics of contact and cover and their responsibilities during investigations. At the start of their shift, Officers Rios and Velasquez did not acquire a shotgun from the Newton Patrol Division kit room which could place them at a tactical disadvantage when confronting an armed suspect.

While en route to the radio call and as part of their planning process, Officer Velasquez read the comments of the radio call and contacted CD via the radio to obtain additional information regarding Calloway. However, Officers Rios and Velasquez did not communicate a tactical plan for encountering the armed suspect.

A review of the incident recall for this incident by FID investigators revealed there was no corresponding Code Six MDC transmission or radio broadcast from Officers Rios or Velasquez. Officer Velasquez did not activate his BWV until after the OIS had occurred and neither Officer Velasquez nor Officer Rios activated their DICVS upon observing Calloway or prior to stopping him.

According to Officer Rios, prior to making contact with Calloway, he angled their police vehicle facing the sidewalk, so that his partner, Officer Velasquez, would be able to utilize the passenger door as cover.

Officers Rios and Velasquez each stated that their plan, although not discussed with one another, was to maintain sight of Calloway and contain him in a perimeter. Officer Rios added that he believed Calloway was armed and was not attempting to apprehend Calloway; however, neither officer set-up a perimeter, communicated their plans with the other officers who were in the area, and did not broadcast that they were in foot pursuit.

The UOFRB discussed the deficient and inadequate plan as a result of Officers Rios and Velasquez' lack of communication. This lack of planning prior to contacting Calloway was evident and placed all the officers at a significant tactical disadvantage. Officers Rios and Velasquez gave conflicting commands, did not place themselves Code Six, did not communicate a plan among themselves or communicate relevant information to responding officers, which included Calloway being armed with a handgun. In addition, Officers Rios and Velasquez did not broadcast they were following Calloway or in foot pursuit and made no attempt to establish a perimeter to contain Calloway. The Chief would have preferred that Officers Rios and Velasquez had developed a specific plan prior to engaging the suspect. Although they had previously worked together and were familiar with each other, Officers Rios and Velasquez would have benefitted from discussing a specific plan, relaying that plan to the other officers in the area, and requesting the assistance of an air unit.

Officer Mata stated he and Officer Bendimez had worked together two times and talked about tactics the first time they worked together. At the time of this incident, Officers Mata and Bendimez discussed that Officer Mata would be the contact officer and Officer Bendimez would be the cover officer. However, Officers Mata and Bendimez did not notify CD that they were responding to this incident, nor did they go Code Six upon their arrival. In addition, although they were having difficulties retrieving the incident on their MDC, Officers Mata and Bendimez did not request the incident information from CD and had no knowledge that Calloway was armed. Officer Mata drove his police vehicle past Calloway, who was running from Officers Rios and Velasquez, and tried to contain Calloway by blocking his path using their police vehicle.

The UOFRB noted that Officer Bendimez could have broadcast a request for information from CD when she experienced difficulty retrieving that information from the MDC. In addition, Officers Mata and Bendimez observed Officers Rios and Velasquez running after Calloway; however, they did not attempt to communicate with the officers their reason for pursuing Calloway. The UOFRB further noted that Officers Mata and Bendimez had positioned and stopped their police vehicle directly in Calloway's path, who was armed, as he ran in their direction. The Chief would have preferred Officers Mata and Bendimez obtain sufficient information and

situational awareness to ensure their safety and to assist them in developing a tactical plan to contain an armed suspect.

Officers Silos and Martinez had worked together three times, discussed contact and cover roles, and lethal and less-lethal options; however, they did not discuss tactics specific to this incident. Officers Silos and Martinez did not notify CD that they were responding to the call with Officers Rios and Velasquez, did not discuss a plan with those officers, nor did they notify CD of their Code Six location. Officer Silos observe that Officers Rios and Velasquez were chasing Calloway, who matched the description of the suspect mentioned in the radio call but did not communicate a plan with those officers.

The UOFRB discussed that Officers Martinez and Silos had observed Officers Rios and Velasquez running after Calloway; however, they did not develop a plan to set-up a perimeter and contain Calloway, knowing Calloway was armed. The Chief would have preferred Officers Silos and Martinez work as a team with Officers Rios and Velasquez to communicate and develop a plan for containment of an armed suspect by setting up perimeter, as well as, requesting sufficient resources to minimize the risks to officers.

**Assessment** – According to Officer Velasquez, he immediately noticed Calloway grabbing his waistband area and increasing his pace as he looked back in Officers Rios and Velasquez' direction. Officer Rios made a similar observation and added that Calloway appeared to have a large bulky item in his left front pocket, which may have been a handgun. Officer Rios assessed that Calloway may be the suspect described in the radio call and advised Officer Velasquez of this assessment. In his assessment of the tactical situation, Officer Rios stated he did not request a back-up, because he believed the two additional units in the area were sufficient to contain Calloway.

According to Officers Rios and Velasquez, based on Calloway's actions, they assessed that Calloway was possibly armed and were attempting to contain him and monitor his direction of travel. As Calloway ran towards Officers Rios and Velasquez, Officer Velasquez utilized his flashlight to illuminate Calloway and observed an uninvolved individual seated on the sidewalk but did not assess her to be in his immediate background.

Officers Rios and Velasquez fired one round each from their service pistols and assessed after firing. In their assessment, both Officers Rios and Velasquez stated they observed Calloway fall to the ground and believed their rounds had struck Calloway.

The UOFRB discussed officers' need to continually assess the background within the context of a tactical incident while weighing the life-threatening risks to the victims, officers, bystanders, and suspects. Officers Rios and Velasquez are reminded to be cognizant of their background during tactical encounters which may

result in the use of deadly force and have the potential to harm community members in the area. The Chief would have preferred that Officers Rios and Velasquez communicated with the uninvolved individual regarding the hazard presented by remaining in the area of Calloway.

According to Officers Mata and Bendimez, they observed and assessed Officers Rios and Velasquez attempting to conduct a pedestrian stop on Calloway. Officer Mata parked their police vehicle next to Officers Rios and Velasquez' police vehicle, unaware Calloway was armed or the reason for the pedestrian stop. In addition, Officers Mata and Bendimez assessed and made the decision to drive past Calloway and the pursuing officers in attempt to block Calloway with their police vehicle.

Officers Silos and Martinez' observed Officers Bendimez and Mata's police vehicle with their amber lights on, driving eastbound on 7<sup>th</sup> Street, and Officers Rios and Velasquez running after Calloway southbound on Crocker Street. Officer Silos observed Calloway with a handgun in his right hand. Officer Silos then observed Calloway stop, turn around, and began to run northbound on Crocker on the west sidewalk. Officer Martinez observed Calloway running northbound on Crocker Street while holding a handgun in his left hand.

**Time** – Officers Rios and Velasquez parked their police vehicle at a distance from Calloway and utilized the police vehicles ballistic doors to afford them time as they gave Calloway verbal commands. According to Officer Rios, Calloway was approximately five to six car lengths ahead of them when Calloway turned and ran back in Officers Rios and Velasquez' direction. In an effort to de-escalate the situation, Officer Rios stated he stopped running to give himself more time to react and create distance between himself and Calloway. According to Officer Velasquez, when Calloway fled from them, he and Officer Rios attempted to maintain a safe distance from Calloway but still maintain a visual on Calloway's location. Officer Velasquez slowed his pace and stopped to the left of Officer Rios in an effort to take the time to assess Calloway's actions. Both officers directed Calloway to get onto the ground to maintain distance. After discharging their first rounds, Officers Rios and Velasquez took the time to conduct assessments and chose not to fire additional rounds because they believed Calloway had been struck by gunfire and was no longer a threat.

In considering the actions of Officers Rios and Velasquez, the UOFRB noted that each of these officers stated their intent was to maintain sight of Calloway and contain him in a perimeter; however, Officers Rios and Velasquez did not take the time to develop a plan or communicate their observations to additional units in the area, request additional resources for containment purposes, or communicate that they were in foot pursuit and attempt to establish a perimeter in this incident. Additionally, Officers Rios and Velasquez did not activate their DICVS and Officer Velasquez did not activate his BWV until after the OIS, despite having the time to do so. The Chief would have preferred that Officers Rios and Velasquez had taken the



time to establish a perimeter and obtain sufficient resources for containment rather than confront an armed suspect which resulted in an OIS.

Officers Mata, Bendimez, Martinez, and Silos had time to activate their BWVs and DICVS but did not do so. In addition, these same officers did not utilize the time to place themselves Code Six or advise CD that they were responding to this call. Upon observing Officers Rios and Velasquez in foot pursuit, none of these officers took the time to broadcast the foot pursuit information, to request a back-up, to establish a plan and a perimeter, or to communicate among each other.

Although they observed Calloway running with a handgun in his hand, neither Officers Martinez nor Silos took the time to communicate that observation to each other or with the other units.

Officer Mata drove his police vehicle past Calloway and tried to contain Calloway by blocking Calloway's path utilizing their police vehicle, which limited their options and the time the officers had to react to Calloway's actions.

The UOFRB deliberated on Officers Bendimez, Mata, Martinez, and Silos' failure to adhere to Department policy and approved tactical training in their haste to confront an armed suspect and take action without obtaining sufficient information or resources. These officers would have benefitted from the use of an air unit, additional officers, and a supervisor. The Chief would have preferred that Officers Martinez, Silos, Mata, and Bendimez apply Department policy and approved tactical training to slow the pace of this incident and de-escalate the situation rather than place themselves at risk.

**Redeployment and/or Containment** – Both Officers Rios and Velasquez indicated they had pursued Calloway in containment mode with the intention of keeping him in their sights and establishing a perimeter. According to Officer Rios, his intent was to monitor Calloway's direction of travel and broadcast that information to establish a perimeter. Officer Rios added that he did not request a back-up, because he had sufficient units to contain Calloway.

Officers Rios and Velasquez both stated that once they turned the corner onto Crocker Street, they did not believe they had any cover to utilize. According to Officer Rios, he looked for vehicles or other hard barriers in the area to move to, but he did not observe any cover. Officer Rios further stated he believed it would have been unsafe to re-deploy, because it would have necessitated turning his back to Calloway; however, the FID investigation revealed there was a telephone pole approximately 11 feet from his position.

According to Officers Mata and Bendimez, as Calloway ran south, they made the decision to contain Calloway by driving past him and the pursuing officers in an attempt to block Calloway's path with their police vehicle. Because of the lack of communication among officers, Officers Mata and Bendimez believed the shiny

object in Calloway's hand was possibly a cell phone. They were not aware that Calloway was armed with a handgun and placed their police vehicle directly in Calloway's line of travel.

Officers Silos and Martinez observed Officers Mata and Bendimez' police vehicle block Calloway's path and believed this action caused Calloway to turn and run north in their direction. According to Officer Martinez, Calloway was holding a handgun in his left hand. Officer Silos brought their police vehicle to a stop and Calloway continued running north, passing Officer Silos and Martinez. Officers Silos and Martinez heard a gunshot and re-deployed by exiting their police vehicle.

The UOFRB discussed the opportunity Officers Rios and Velasquez had to utilize Officers Mata and Bendimez, along with Officers Martinez and Silos, to secure a perimeter and contain Calloway. Instead, Officers Rios and Velasquez chose to disregard those resources and not request a back-up. Their primary objective should have been containment of Calloway while coordinating responding resources. The Chief would have preferred Officers Rios and Velasquez had utilized their available resources in coordinating a response while maintaining a visual on Calloway from a tactically safe position and reducing the risk of potential harm to themselves and to the other officers who were in the area.

**Other Resources** – Both Officer Rios and Velasquez acknowledged that they did not initiate a back-up or a foot pursuit broadcast to communicate their location and obtain additional resources such as an air unit, a supervisor, and additional officers for a perimeter. According to Officer Velasquez, he believed he did not have time to utilize his radio, because his main focus was pursuing Calloway. Both officers also indicated they were aware additional units were with them and believed those units were sufficient to contain Calloway. Officers Mata, Bendimez, Martinez, and Silos did not request a back-up or additional resources as well.

As a result of the OIS and "help call," additional Department personnel responded, along with Los Angeles Fire Department (LAFD) personnel; however, Calloway refused to be medically examined.

The UOFRB noted that consistent with the deficient lack of planning and communication, available resources were not requested by any of the officers involved in this incident prior to the OIS.

**Lines of Communication** – Both Officers Rios and Velasquez stated they had been assigned as partners for a year and a half and had several conversations regarding tactical scenarios, the topic of contact and cover roles, and their responsibilities while conducting an investigation.

While en route to the radio call, Officer Velasquez read the comments of the radio call to Officer Rios and contacted CD to ascertain additional information regarding Calloway; however, Officers Rios and Velasquez did not communicate a tactical plan

should they encounter Calloway and did not place themselves Code Six over the radio or through the MDC.

Although not discussed with one another, Officers Rios and Velasquez each stated that their plan was to maintain sight of Calloway and contain him in a perimeter. When Officer Rios observed Calloway with his hand in his pocket and the other in his waistband, Officer Rios communicated this observation to Officer Velasquez. In addition, Officers Rios and Velasquez stated they gave verbal commands to Calloway in an attempt to detain him and continued to communicate with Calloway throughout this incident until he was apprehended and handcuffed. Upon exiting their police vehicle, Officers Rios and Velasquez gave conflicting simultaneous commands to Calloway where Officer Rios directed Calloway toward them, and Officer Velasquez ordered Calloway to face the wall. Officer Rios immediately broadcast a "help call" after the OIS had occurred.

The UOFRB noted Officers Rios and Velasquez' lack of communication prior to contacting Calloway was apparent and placed them and responding officers at a significant tactical disadvantage. Officers Rios and Velasquez gave conflicting commands to Calloway, did not place themselves Code Six, did not communicate a plan among them or communicate important information to responding officers, which included Calloway being armed with a handgun. In addition, Officers Rios and Velasquez did not broadcast they were in foot pursuit and made no attempt to verbally establish a perimeter to contain Calloway who was armed. The Chief would have preferred that Officers Rios and Velasquez had a discussion prior to making contact with Calloway. Although they had previously worked together, Officers Rios and Velasquez would have benefitted from discussing a specific plan, communicating that plan to the other officers in the area, and requesting the assistance of an air unit and a supervisor.

Officer Mata stated he and Officer Bendimez talked about tactics the first time they worked together and at the time of this incident, Officers Mata and Bendimez discussed that Officer Mata would be the contact officer and Officer Bendimez would be the cover officer. However, Officers Mata and Bendimez did not notify CD that they were responding to this incident, nor did they go Code Six upon their arrival and update their location as it changed. In addition, Officers Mata and Bendimez did not request the incident information from CD and were not aware that Calloway was armed.

The UOFRB noted that Officers Bendimez and Mata could have broadcast a request for information on the call from CD. In addition, Officers Mata and Bendimez observed Officers Rios and Velasquez running after Calloway but did not communicate with the pursuing officers or broadcast a back-up for Officers Rios and Velasquez. The Chief would have preferred Officers Mata and Bendimez obtain and share information among themselves and with the pursuing officers to ensure their safety and minimize their risks.

Officers Silos and Martinez had worked together previously and discussed lethal, less-lethal, contact and cover roles; however, they did not discuss tactics specific to this incident. Officers Silos and Martinez did not notify CD that they were responding to the call with Officers Rios and Velasquez, did not discuss a plan with those officers, nor did they notify CD of their Code Six location and updated locations. Officer Silos observed that Officers Rios and Velasquez were chasing Calloway, who matched the description of the suspect mentioned in the radio call but did not communicate a plan with those officers.

The UOFRB discussed that Officers Martinez and Silos had observed Officers Rios and Velasquez running after Calloway; however, they did not take it upon themselves to establish a perimeter and contain Calloway, knowing Calloway was armed. The Chief would have preferred Officers Silos and Martinez work as a team with Officers Rios and Velasquez to communicate a plan for containing Calloway and requesting sufficient resources to minimize the risks to the officers and community members.

The UOFRB noted that overall; there was minimal communication among the officers that responded to the original radio call, which started with a deficiency in planning. Officers Rios and Velasquez, Officers Mata and Bendimez, and Officers Silos and Martinez did not communicate their response or coordinate with each other. The UOFRB concluded, and the Chief concurred, that communication among all personnel at the scene and with responding units is critical when coordinating containment of an armed suspect. Furthermore, the lack of communication placed those at scene and responding units at a tactical disadvantage as they tried to develop situational awareness without the benefit of crucial information from Officers Rios and Velasquez.

Officer Vildosola requested an RA for Calloway as he believed Calloway was struck by gunfire.

## Debriefing Points

- During the review of the incident, the following Tactical Debriefing Points were noted:
- **Code Six** (Substantial Deviation, without Justification - Officers Rios, Velasquez, Mata, Bendimez, Silos, and Martinez)

*When a unit is conducting a field investigation and no assistance is anticipated, a "Code Six," followed by the location, shall be broadcast. A unit shall not go "Code Six" until it arrives at the scene of a call.*

*Units on "Code Six" status shall remain available for reassignment to priority calls by monitoring their radio frequencies. A unit on "Code Six" status may indicate to the*

*dispatcher additional circumstances, which will make the unit unavailable for assignment to a priority call.*

*These circumstances may include.*

- *Suspect in custody;*
- *Primary unit at a crime scene; and/or,*
- *Required at a Back-up, assistance, or help location.*

**Note:** *The unit shall notify the dispatcher as soon as it is again available for radio calls (Los Angeles Police Department Manual, Volume 4, Section 120.40).*

Officers Rios and Velasquez did not advise CD of their Code Six status when they arrived on scene and failed to update their Code Six location when making contact with Calloway and throughout the foot pursuit, leaving CD unaware of their location.

Officers Mata and Bendimez and Officers Silos and Martinez did not advise CD that they were responding to the radio call or advise of their Code Six status when they arrived on scene and throughout the remainder of the incident.

The purpose of going Code Six is to advise CD and officers in the area of their location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel. The comments of the radio call depicted the suspect to be armed and displaying his handgun in a dangerous manner. The identity and actions of a person stopped are often unknown, and as in this case, actions can be unpredictable.

Officers Rios and Velasquez first observed Calloway walking on the sidewalk, approximately seven blocks from where the radio call was generated. Officers Rios and Velasquez did not utilize the time, upon initially observing Calloway and while they were conducting a U-turn, to advise CD that they were Code Six. Officers Rios and Velasquez also did not advise CD of their updated location prior to contacting Calloway.

The UOFRB noted that Officers Rios and Velasquez had sufficient time to broadcast their Code Six location as well as other relevant information, including the updated location of the suspect and that Calloway was possibly armed with a handgun. Upon initial observation of Calloway, Officers Rios and Velasquez were not faced with an immediate threat but rather with a suspect who was attempting to flee.

Officers Mata and Bendimez responded to the radio call, and upon their arrival, Officers Mata and Bendimez observed Officers Rios and Velasquez driving eastbound on 7<sup>th</sup> Street. Officers Mata and Bendimez followed behind Officers Rios and Velasquez in their police vehicle as they drove and made the U-turn on 7<sup>th</sup> Street. Officers Mata and Bendimez did not take the time to broadcast they were Code Six when they joined Officers Rios and Velasquez.

The UOFRB noted that Officers Mata and Bendimez had sufficient time to broadcast their Code Six location, and to request CD to broadcast the comments of the call.

Officers Silos and Martinez responded to the radio call and observed Officers Rios and Velasquez in a foot pursuit while Officers Mata and Bendimez followed Calloway in their police vehicle. Officers Silos and Martinez knew that they were responding to an armed suspect radio call but had limited information of the radio call comments due to them unable to fully access the details of the radio call on the MDC. Officers Silos and Martinez failed to notify CD of their Code Six status and also failed to request for CD to broadcast the comments of the radio call.

The UOFRB noted that Officers Silos and Martinez also had sufficient time to broadcast their Code Six location and request CD to broadcast the comments of the call.

The UOFRB discussed the importance of the officers notifying CD of their Code Six location, whether via the MDC or broadcasting it over the radio. The UOFRB also discussed that officers could have requested that CD broadcast the comments over the radio. Officers Rios, Velasquez, Mata, Bendimez, Silos, and Martinez were afforded sufficient time to broadcast their Code Six location upon arrival to the call location and prior to locating Calloway, but did not go Code Six.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that Officers Rios, Velasquez, Mata, Bendimez, Silos, and Martinez, despite having the time and opportunity to do so, failed to notify CD of their Code Six location and did not update their location as they followed Calloway, resulting in a substantial deviation, without justification, from approved Department tactical training. The Chief directed that this be a topic of discussion during the Tactical Debrief.

- **Back-Up Request** (Substantial Deviation, without Justification - Officers Rios, Velasquez, Mata, Bendimez, Silos, and Martinez)

***Back-up Unit Request:*** *This emergency call shall be broadcast when an officer requires additional units immediately, but the situation does not rise to the level where serious bodily injury, death or serious threat to public safety is imminent. The officer requesting shall include the location, followed by the unit designation and all other pertinent information, including the reason for the request (Los Angeles Police Department Manual, Volume 4, Section 120.40).*

In this case, Officers Rios and Velasquez located and identified a possibly armed and potentially violent suspect in response to a radio call of an armed individual. The UOFRB noted Officers Rios and Velasquez did not request a back-up after they observed the suspect grabbing his waistband and believed Calloway may have had a handgun in his pocket. Officers Rios and Velasquez also failed to request a back-up when Calloway fled from them and they initiated a foot pursuit. Officers Mata,

Bendimez, Silos, and Martinez also attempted to detain Calloway and did not request a back-up.

Although officers are given discretion regarding the appropriate time to request additional resources based on the tactical situation, a request for a back-up would have been tactically advantageous based on the information contained in the initial radio call, Officers Rios and Velasquez's initial observations of Calloway, and Calloway reaching in his waistband area.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that the Officer's delay in failing to request a back-up was a substantial deviation, without justification from approved Department tactical training. The Chief directed that this be a topic of discussion during the Tactical Debrief.

- **Foot Pursuit – Apprehension vs. Containment Mode / Pursuing Armed Suspect** (Substantial Deviation, without Justification - Officers Rios and Velasquez)

***Apprehension versus Containment:*** *There are two pursuit modes officers may use when a suspect flees on foot, apprehension mode or containment mode. Some factors that will influence an officer's decision to operate in the apprehension or containment mode are the suspect's actions, officer's experience, training, physical fitness level, location and available resources.*

*During apprehension mode, officers work as a team, pursue and attempt to overtake a fleeing suspect until apprehending the suspect, making the decision to discontinue the foot pursuit or transition into containment mode. The pursuing officers should assess and communicate with each other before deciding on a course of action.*

*If the suspect is no longer in sight or enters a structure such as a house, apartment or business, or gains a tactical advantage, officers may make the decision to continue the pursuit in containment mode while coordinating the response of additional units to establish a perimeter. Containing a suspect in a specific area can decrease the opportunity for an ambush and will make it more likely that the suspect will be taken into custody.*

*When the decision is made to establish a perimeter, officers should act quickly to prevent the suspect's escape and broadcast the following:*

- *General location of an incident command post (the end of pursuit location). This location can be moved later.*
- *Boundaries for the perimeter. Remember it is easier to decrease a perimeter than increase one. Initially, even general locations or instructions will suffice. (e.g. 2 blocks to South and North, 2 blocks to East and West of my location).*
- *Request for air unit to assist in establishing or adjusting the perimeter. The presence of the air unit will also encourage the suspect(s) to remain within the perimeter.*

- *Request a supervisor and the necessary resources to safely handle the incident (Los Angeles Police Department, Use of Force-Tactics Directive No. 3.2, Foot Pursuit Concepts, October 2013).*

***Pursuing Armed Suspects:*** *When pursuing a suspect believed to be armed, officers should generally do so in containment mode while considering the available tactical advantages, including cover and concealment where available. The goal is to maintain observation of the suspect and the tactical advantage while coordinating the response of additional units and other resources for a perimeter with the objective of containing the suspect and taking him into custody safely. The decision to pursue an armed suspect in apprehension mode may be appropriate when the suspect is at a tactical disadvantage and an arrest can be accomplished with limited risk to officers or innocent parties (Los Angeles Police Department, Use of Force-Tactics Directive, Foot Pursuit Concepts, Directive No. 3.2, October 2013).*

Officers Rios and Velasquez engaged in a foot pursuit with Calloway who was possibly an armed suspect. Prior to contact with Calloway, Officers Rios and Velasquez observed Calloway holding his waistband which they believed was consistent with a suspect securing a handgun in clothing.

Containment of an armed suspect demands optimal situational awareness. The ability to maintain the tactical advantage rests on the ability of the officers to effectively communicate, thus ensuring a coordinated effort, establishing a perimeter, and increasing the likelihood of a successful resolution.

Generally, officers are discouraged from pursuing armed suspects on foot. Nonetheless, Department policy and training affords a level of discretion regarding the appropriateness of their decision to engage in foot pursuit of an armed suspect.

In this case, Officers Rios and Velasquez had responded to the area as a result of a radio call indicating that a male (Calloway) was pointing a handgun at vehicles as they passed by. Upon arrival, Officers Rios and Velasquez located Calloway and believed Calloway was in possession of a handgun because he held his waistband in a manner consistent with concealing a handgun. Upon contact, Calloway fled from Officers Rios and Velasquez, who engaged in a foot pursuit and never broadcast or attempted to set up a perimeter to contain an armed suspect and maintain the tactical advantage. Additionally, Officer Rios knew that Officers Mata and Bendimez had joined them prior to making contact with Calloway; however, there was no communication between Officers Rios, Mata and Bendimez. Officers Rios and Velasquez could have utilized Officers Mata and Bendimez to assist by using their police vehicle to secure the perimeter. Officer Rios stated that he feared Calloway may turn and shoot at them; however, when Calloway fled, Officers Rios and Velasquez both initiated a foot pursuit of an armed suspect with their service pistols drawn, while Officers Mata and Bendimez followed in their police vehicle.



The UOFRB opined that Officers Rios and Velasquez engaged in a foot pursuit with an armed suspect who had already exhibited deadly actions by pointing his pistol at passing vehicles. Officer Rios and Velasquez' actions placed them at a tactical disadvantage should Calloway have fired upon the officers. Officers Rios and Velasquez should have utilized the assistance of other officers to contain Calloway and not engage in a foot pursuit. Officers Rios and Velasquez were required to broadcast that they were in foot pursuit of a possibly armed suspect and quickly request the necessary resources to set up a perimeter. It would have been preferred that Officers Rios and Velasquez maintain observation of Calloway while they coordinated the response of responding units with the objective of containing Calloway within the perimeter. The actions of Officers Rios and Velasquez were not consistent with the Department training and tactics taught with regard to setting up a perimeter to contain an armed suspect. In addition, pursuing a fleeing subject with a service pistol drawn limits the officers' ability to coordinate a response from additional units. The actions of Officers Rios and Velasquez appeared to be one of apprehension, not of containment.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that Officers Rios and Velasquez' actions were a substantial deviation, without justification, from approved Department tactical training. In order to enhance future performance, the Chief directed that this be a topic of discussion during the Tactical Debrief.

- **Foot Pursuit Broadcast** (Substantial Deviation, without Justification - Officers Rios and Velasquez)

*Effective communication is essential during foot pursuits. Due to the rapidly unfolding situation, officers may not be able to include complete information in the initial broadcast. Additional information may be provided when tactically sound to do so.*

*Primary Officer: The officer whose primary responsibility is to focus on the threat posed and direction of travel of the suspect. The primary officer is usually the officer in front and closest to the suspect and in a position of advantage to assess any threat posed, give commands and direct the tactics of the pursuit. The role of the officer may change during the course of the foot pursuit, and the primary officer may become the secondary officer.*

*Secondary Officer: While the primary officer focuses on the suspect, the secondary officer focuses on the safety of the primary officer and responding personnel. The secondary officer broadcasts the location and direction of the pursuit; requests additional resources and coordinates their response and direction of travel. The role of the officer can change during the course of the foot pursuit and the secondary officer can quickly become the primary officer (Los Angeles Police Department Use of Force – Tactics Directive No. 3.2, Foot Pursuit Concepts, October 2013).*

Officers Rios and Velasquez did not advise Communications Division (CD) of their location or broadcast that they were in foot pursuit, nor did they provide critical information about the direction of the foot pursuit, that Calloway was possibly armed or the reason for pursuing Calloway.

The purpose of broadcasting a foot pursuit is to advise CD and officers in the area of their location and generated response of additional personnel. Pedestrian stops can be dangerous, as the identity and actions of a person stopped is often unknown, and as in this case, their actions can be unpredictable.

The Department's policy, training, procedures, and tactical directives are all consistent relative to the fact that the primary officer in a foot pursuit will focus on the suspect, rather than coordinating resources and the secondary officer in a foot pursuit would assume the responsibility for broadcasting. The concept of effective communication via a radio broadcast cannot be compromised.

In this case Officers Rios and Velasquez responded to a man pointing a handgun at vehicles as they passed by. Upon arrival to the area of the call location, Officers Rios and Velasquez observed Calloway, who matched the description of the person pointing the handgun at vehicles. Officers Rios and Velasquez attempted to make contact with Calloway and a foot pursuit ensued. According to Officer Rios he was the primary officer in the foot pursuit and did not broadcast his actions. Officer Rios anticipated that Officer Velasquez would broadcast, however, Officer Velasquez did not broadcast.

The UOFRB noted that Officers Rios and Velasquez did not broadcast their foot pursuit and pursued Calloway with their service pistols drawn, limiting their ability to utilize their handheld police radios to broadcast. Additionally, had Officers Rios and Velasquez communicated a tactical plan, they would have had a greater opportunity to gain the tactical advantage and ability to mitigate the actions of Calloway.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that Officers Rios and Velasquez's failure to advise CD when they went into foot pursuit, was a substantial deviation, without justification, from approved Department tactical training. The Chief directed that this be a topic of discussion during the Tactical Debrief.

- **Tactical Vehicle Deployment** (Substantial Deviation – Officers Mata and Bendimez)

*Officers must approach every contact with officer safety in mind. Complacency, overconfidence, poor planning or inappropriate positioning can leave officers vulnerable to attack (California Commission on Peace Officer Standards and Training, Learning Domain 21).*

*When stopping one or more suspect(s) using the police vehicle; position the patrol vehicle to maximize officer safety for both officers (Los Angeles Police Department, Regular Basic Course, Tactics Lesson Plan, Pedestrian Stops, Pages 7-8, February 2003).*

Officers Mata and Bendimez utilized their police vehicle in an attempt to block the path of Calloway as he fled on foot from pursuing officers. The positioning of the police vehicle when conducting a pedestrian stop is critical in order to provide the officers a tactical advantage should the incident escalate.

In this case, Officers Mata and Bendimez placed themselves at a significant tactical disadvantage by positioning their police vehicle in close proximity, without cover, to the possibly armed suspect, as well as causing a crossfire situation with Officers Rios and Velasquez as they pursued Calloway on foot. Officer Mata stated as they pulled up to the intersection that Calloway was coming around the corner and they wanted to “cut him off” so they could contain Calloway.

The UOFRB considered the circumstances surrounding Officer Mata’s vehicle deployment and positioning while confronting a suspect matching the description and thought to be armed, as well as being actively pursued by officers on foot. Officer Mata’s decision to cut off the path of this suspect significantly increased the risk to both him and his partner and was not consistent with Department tactical training.

Officer Bendimez observed Calloway running as they were driving their police vehicle trying to catch up to him. Officer Bendimez’ plan was to cut Calloway off to contain him. Officer Bendimez decided to contain Calloway by passing him in an effort to make Calloway stop and change his direction of travel.<sup>47</sup> The angled position of the police vehicle relative to Calloway’s location reduced the officers’ ability to react to Calloway’s actions and reduced their ability to utilize the police vehicle as cover as Calloway ran towards them while being pursued by other officers. The UOFRB was critical of the officers’ decision and opined that the officers placed themselves at a significant tactical disadvantage, as they positioned their police vehicle in the pathway of an armed suspect. The actions of Officer Mata and Bendimez posed an unnecessary risk to the officers.

Both the UOFRB and the Chief would have preferred that the officers displayed greater control of their police vehicle, tactically communicated, and utilized all available resources to establish a perimeter to contain Calloway. This would have provided a tactical advantage for the officers and have afforded the officers additional time and distance to assess the rapidly unfolding tactical situation.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that Officers Mata and Bendimez’ tactical positioning of their police

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<sup>47</sup> Officer Bendimez, Page 14, Lines 20-22.

vehicle was a substantial deviation, without justification, from approved Department tactical training. The Chief directed that this be a topic of discussion during the Tactical Debrief.

### **Additional Tactical Debrief Topics**

- **Handling of a Service Pistol Inside of Moving Vehicle** – As Officer Velasquez was seated in the passenger seat of the police vehicle, he unholstered his service pistol as they approached the area of the radio call. Upon arrival, Officer Velasquez exited the police vehicle as he utilized his right hand to hold his service pistol while also using the same hand to pull the door release latch to open the door. Officer Velasquez is reminded of the importance of firearm safety and officer safety in order to mitigate instances that could lead to an unintentional discharge. In order to enhance future performance, the Chief directed that this be a topic of discussion during the Tactical Debrief.<sup>48</sup>
- **Updating Status** – Officers Mata, Bendimez, Silos and Martinez did not notify CD of their status while en route to the radio call via the MDC or by broadcasting it over the radio. Officers Mata, Bendimez, Silos and Martinez are reminded of the importance of updating their status so that CD is aware of their location should the incident necessitate the response of additional personnel. The Chief directed that this topic be discussed during the Tactical Debrief.
- **Tactical Communication** – Officers Rios and Velasquez did not communicate a tactical plan for encountering the armed suspect. Officers Rios and Velasquez did not communicate their intended actions to each other when Calloway fled on foot, nor did they communicate that they were in foot pursuit. Officers Rios and Velasquez did not verbally advise Officers Mata, Bendimez, Silos and Martinez of their plan or their needed assistance when they arrived. Additionally, neither Officers Rios, Velasquez, Mata, Bendimez, Silos nor Martinez communicated or verified with each other whether they were Code Six.

Officers Rios, Velasquez, Mata, Bendimez, Silos and Martinez are reminded that when tactically feasible it is preferred to advise responding personnel of all pertinent information during a tactical situation as operational success is based on the ability of officers to effectively communicate during critical incidents. When faced with a tactical incident, overall safety is improved by an officer's ability to recognize an unsafe situation and work collectively to ensure a successful resolution. The Chief directed that this be a topic of discussion during the Tactical Debrief.

- **Simultaneous Conflicting Commands** – Officers Rios and Velasquez gave verbal commands to Calloway, which they believed Calloway heard. Officer Velasquez

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<sup>48</sup> On August 31, 2020, Personnel and Training Bureau (PTB) released Department Notice *Handling of Firearms while Operating a Vehicle*. The Notice addressed the associated risk of holding a firearm while operating a police vehicle.

ordered Calloway to face towards a wall that was to the right of him. Upon exiting his vehicle, Officer Rios yelled, "Come over here." Officers Rios and Velasquez are reminded to designate one communications officer to verbalize with individuals to avoid confusion and non-compliance. The Chief directed that this be a topic of discussion during the Tactical Debrief.

- **Running with a Service Pistol Drawn** – Officers Rios and Velasquez engaged in a foot pursuit with their service pistols drawn. Although this was a dynamic and rapidly unfolding incident involving a suspect who appeared to be possibly armed, Officers Rios and Velasquez are reminded that there is a heightened concern for an unintentional discharge when running with a service pistol drawn. The Chief directed that this be a topic of discussion during the Tactical Debrief.
- **Securing a Police Vehicle** – Officers Rios and Velasquez ran after Calloway and left their police vehicle unsecured with the driver and passenger doors open. Their police vehicle was parked at the intersection of 7<sup>th</sup> Street and San Pedro Street with pedestrians standing nearby. Officers Rios and Velasquez are reminded that the security of police vehicles is an important component of officer safety as there are tools and weapons in police vehicles that could be accessed by unauthorized persons. The Chief directed that this be a topic of discussion during the Tactical Debrief.

Officers Mata and Bendimez left their police vehicle unsecured with the driver and passenger doors open prior to redeploying to the location of the OIS. Officers Mata and Bendimez are reminded that the security of police vehicles is an important component of officer safety as there are tools and weapons in police vehicles that could be accessed by unauthorized persons. The Chief directed that this be a topic of discussion during the Tactical Debrief.<sup>49</sup>

- **Adherence to the Vehicle Code while Responding to a Radio Call** – Officers Silos and Martinez responded to the radio call in their police vehicle without their emergency equipment activated and drove their vehicle through the red tri-light at San Pedro Street and 7<sup>th</sup> Street. Officers Silos and Martinez are reminded that while operating a police vehicle without their emergency equipment activated requires them to obey all traffic laws. The Chief directed this to be a topic of discussion during the Tactical Debrief.
- **Initiating Contact While Seated in Police Vehicle** – Officer Martinez initiated contact with Calloway while still seated in the passenger seat of their police vehicle. Officer Martinez is reminded of the importance of proper tactics when conducting

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<sup>49</sup> Officers Rios, Velasquez, Mata, and Bendimez were driving black and white, Ford Explorer police vehicles which use a traditional ignition key to start the vehicle. The investigators from FID were unable to determine if the police vehicles were left running; however, FID was able to determine that the ignition keys were left in the ignition for both police vehicles.

pedestrian stops to maintain a tactical advantage. Officers should exit their vehicles for the purposes of officer safety. The Chief directed this be a topic of discussion during the Tactical Debrief.

- **Utilization of Cover** – Officers Rios and Velasquez both advised that once they turned the corner onto Crocker Street, they did not believe they had any cover to utilize. The UOFRB and the FID investigation noted that there was a telephone pole approximately 11 feet southwest from Officers Rios' position at the time Officer Rios stopped running. Officers Rios and Velasquez are reminded that the use of cover often results in officers being able to utilize various options, as well as providing officers with more time to make decisions in the event the suspect presents an imminent threat of death or serious bodily injury. The Chief directed this be a topic of discussion during the Tactical Debrief.
- **Basic Firearms Safety Rules** – Officer Velasquez appeared to momentarily cover Officer Rios with his service pistol as he approached Officer Rios. Officer Velasquez is reminded of the basic firearm safety rules and their importance not only for the safety of themselves and those around them but also as a measure to prevent injury to others. The Chief directed this be a topic of discussion during the Tactical Debrief.
- **Background/Situational Awareness** – As Calloway ran towards Officers Rios and Velasquez, Officer Velasquez momentarily utilized his flashlight to illuminate the west sidewalk and Calloway. This lighting also illuminated an unknown person sitting against the east wall of the business located at 717 Crocker Street. Officer Rios acknowledged seeing this individual but did not assess her to be in his immediate background at the time he fired. Officer Velasquez was not aware this individual was there at the time of the OIS. Officers Rios did not communicate to Officer Velasquez of his observations and did not communicate with the unknown person to leave the area and move to a safer location.

This incident occurred in an area with heavy pedestrian traffic in the City of Los Angeles and the actions conducted by Calloway presented a significant concern for the safety of the community, as well as the officers. Consistent with Department policy and training, Officers Rios and Velasquez are reminded to be cognizant of their background during tactical encounters which may result in the use of deadly force and inadvertently harm community members in the area. The background of a tactical incident must be continually assessed in balance with life threatening risks to the victims, officers, suspects, and bystanders. Every effort should be made to assess the environment and protect community members in the background when utilizing lethal force. Continuous Communication among the officers and with nearby community members will assist in ensuring their safety and remove potential risks. It also allows the officers to focus on handling the suspect without further distractions or hazards. Officers Rios and Velasquez are reminded that the background, within the context of a tactical incident, must be continually assessed while considering the

risks to victims, officers, and community members. The Chief directed that this be a topic of discussion during the Tactical Debrief.

- **Location/Situational Awareness** – Officers Rios and Velasquez deployed from their vehicle and went into foot pursuit. After Officers Rios and Velasquez were involved in an OIS, neither officer knew their location to broadcast when they broadcast the “help call.” The FID investigation revealed that Officers Rios and Velasquez were approximately seven blocks away from the radio call location. Officers Rios and Velasquez are reminded that they must know their location to accurately communicate and receive their needed resources. The Chief directed this be a topic of discussion during the Tactical Debrief.
- **Integrity of the Crime Scene** – After the OIS, Officer Bendimez returned to her police vehicle and drove the police vehicle closer to the crime scene, approximately 83 feet from its original location, and secured it in the roadway. Officer Bendimez is reminded that vehicles and equipment are to be left undisturbed until FID investigators can properly document and preserve the scene. The Chief directed this be a topic of discussion during the Tactical Debrief.
- **Protocols Subsequent to a Categorical Use of Force – Transportation** – Officers Silos and Martinez had been identified as percipient witnesses to the OIS but did not notify Sergeant Lobo of their involvement as witnesses. Not knowing that Officers Silos and Martinez had witnessed the OIS, Sergeant Lobo directed Officers Silos and Martinez to move their vehicle from its original location to conduct a transport of the suspect to Newton Station. Officers are reminded of the importance of protocols subsequent to a Categorical Use of Force, specifically identifying themselves as percipient witnesses to supervisors at the scene. The Chief directed this be a topic of discussion during the Tactical Debrief.

## **Command and Control**

- *Command and Control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. Command uses active leadership to establish order, provide stability and structure, set objectives and create conditions under which the function of control can be achieved with minimal risk. Control implements the plan of action while continuously assessing the situation, making necessary adjustments, managing resources, managing the scope of the incident (containment), and evaluating whether existing Department protocols apply to the incident.*

*Command and Control is a process where designated personnel use active leadership to command others while using available resources to accomplish tasks and minimize risk. Active leadership provides clear, concise, and unambiguous communication to develop and implement a plan, direct personnel and manage resources. The senior officer or any person on scene who has gained sufficient situational awareness shall initiate Command and Control and develop a plan of*

*action. Command and Control will provide direction, help manage resources, and make it possible to achieve the desired outcome. Early considerations of PATROL will assist with the Command and Control process (Los Angeles Police Department, Training Bulletin, Volume XLVII Issue 4, July 2018).*

*Line Supervision – Defined. A supervisor who has the specific responsibility of issuing directions and orders to designated subordinates shall be considered as having the duty of line supervisor and shall be held accountable for achieving conformance with the directions and orders that he/she issues (Los Angeles Police Department Manual, Volume 3, Section 135).*

*Incident Commander (IC) – In accordance with Department Policy, the IC sets the objectives, the strategy and directs the tactical response. Directing the tactical response means applying tactics appropriate to the strategy, assigning the right resources and monitoring performance (Supervisor's Field Operations Guide, Volume 2, LAPD Emergency Operations Guide).*

There was no supervisor at scene during the tactical aspect of this incident. After the OIS, Officer Rios did exercise active leadership as he demonstrated a calm and composed demeanor upon arrival of responding officers. Officer Rios maintained clear lines of communication with responding officers and directed them to update their location and form an arrest team. Officer Rios appointed himself as the Designated Cover Officer (DCO) and gave Calloway clear and direct commands. Additionally, he formulated a plan for a coordinated and controlled approach to take Calloway into custody. Officer Rios also advised officers not to touch Calloway's revolver and assigned an officer to monitor it.

Sergeant Aguirre was the first supervisor to arrive at scene and met with Officers Rios and Velasquez, who identified themselves as being involved in the OIS. Sergeant Aguirre separated Officers Rios and Velasquez, admonished them not to talk about the incident, and directed other officers to set up crime scene tape to secure the area. She monitored Officers Rios and Velasquez until relieved by Sergeant Lobo.

Sergeant Lobo assumed the role as Incident Commander but did not broadcast that information over the radio. Sergeant Lobo took command of the scene and ensured involved and witnessing officers were separated, public safety statements were obtained, and there was proper crime scene management. Sergeant Lobo monitored both officers until relieved by Sergeant Burke.

Sergeant Burke delegated responsibilities to the uninvolved officers and made sure containment of the area was established. Sergeant Burke also ensured there were egress and ingress routes for responding personnel.



Sergeant Lobo obtained a Public Safety Statement (PSS) from Officer Velasquez. According to the FID investigation, Sergeant Lobo recorded a portion of Officer Velasquez' PSS on BWV until he was advised by Sergeant Burke to stop recording.

Sergeant Burke obtained a PSS from Officer Rios and monitored him throughout the duration of the incident.

Sergeant Lobo directed Officers Silos and Martinez to transport Calloway to Newton Station.

Sergeants Aguirre, Lobo, and Burke provided supervision and control of the on-going tactical incident. The actions of Sergeants Aguirre, Lobo, and Burke were consistent with Department supervisory training and met the Chief's expectations of field supervisors during a critical incident.

### **Tactical Debrief**

- In conducting an objective assessment of this case, the UOFRB determined, and the Chief concurred, that Officers Rios, Velasquez, Mata, Bendimez, Silos, and Martinez actions were a substantial deviation, without justification, from Department policy and tactical training, thus requiring a finding of Administrative Disapproval.

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

Although, it was determined that Sergeants Lobos and Aguirre were not substantially involved in this incident and did not receiving formal findings, the UOFRB recommended, and the Chief concurred, that they would benefit from attending the Tactical Debrief. Therefore, the Chief directed that Sergeants Lobos and Aguirre attend a Tactical Debrief and that the specific identified topics are discussed.

**Note:** Additionally, the Tactical Debrief shall also include the following mandatory discussion points:

- Use of Force Policy;
- Equipment Required/Maintained;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;
- Command and Control; and,
- Lethal Force.

## General Training Update (GTU)

- On December 10, 2019, Officers Rios and Velasquez attended a General Training Update (GTU). All mandatory topics were covered including the Force Option Simulator and Foot Pursuit Concepts.

## Drawing/Exhibiting

- Department policy relative to drawing and exhibiting a firearm is: *“An officer’s decision to draw or exhibit a firearm should be based on the tactical situation and the officer’s reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified”* (Los Angeles Police Department Manual, Volume No. 1, Section 556.80).
- **Officer Velasquez** – According to Officer Velasquez, he unholstered his service pistol while riding in the passenger seat of their police vehicle as they were approaching the intersection of 7<sup>th</sup> Street and San Pedro Street. Officer Velasquez unholstered his service pistol based off the comments of the call that the suspect had a handgun and they were approaching the area where the suspect was located. When Officer Velasquez exited the police vehicle after observing Calloway standing at the corner of 7<sup>th</sup> Street and San Pedro Street, Officer Velasquez pointed his service pistol at Calloway’s mid-section in order to protect himself and Officer Rios from what they believed to be a lethal threat.

Officer Velasquez recalled, *“I see the - - the intersection of 7th Street, at which point, based on the comments of the call, I was - - I was under the impression that suspect was going to be around that area. At which point, I unholstered because I - - I believe that the suspect was going to have the upper hand on us as being so close to the location.”*<sup>50</sup>

*“I pointed at his mid-section...Because the comments of the call, and I reasonably believed that he had a firearm. And to protect myself and my partner and others from what I reasonably believe to be an imminent threat of death, serious bodily injury.”*<sup>51</sup>

- **Officer Rios** – According to Officer Rios, he stopped the police vehicle and exited as he observed Calloway standing at the corner of 7<sup>th</sup> Street and San Pedro Street near the market. In fear that Calloway was hiding a handgun in his waistband and could quickly retrieve it to fire at him Officer Rios unholstered his service pistol, held it with his right hand and pointed it at a low ready position towards Calloway.

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<sup>50</sup> Officer Velasquez, Page 12, lines 1-6.

<sup>51</sup> Officer Velasquez, Page 18, Lines 21-25, and Page 19, Lines 1-2.

Officer Rios recalled, *"So I unholstered immediately exiting our vehicle when we were attempting to give the suspect commands. Given that there was a - - that I believe that this person - - this suspect was running with a firearm tucked in a waistband, I believe that this person could have pulled a firearm at any moment, turned back and fired - - fired upon me."*<sup>52</sup>

*"Because I believe that the suspect - - there was an eminent threat that if the suspect indeed did have a firearm, which was my observation at the time that I believed he had a firearm, at any time he could turn back in my direction and acquire a target and fire at me."*<sup>53</sup>

- **Officer Silos** – According to Officer Silos, he observed Calloway run past his police vehicle holding what he believed to be a handgun that had a *wooden handle* and a *long silver barrel*. Shortly after, Officer Silo heard a "pop" sound that Officer Silo believed to be a gunshot. Officer Silo exited his police vehicle and walked towards the rear of the police vehicle. He observed other officers with their service pistols drawn and observed Calloway on the ground. Officer Silos heard an officer yelling at Calloway to "Drop the gun," and then Officer Silos drew his service pistol.

Officer Silos recalled, *"I got out of the vehicle and then I kind of walked towards the rear of the vehicle and that's when I unholstered."*<sup>54</sup>

*"Because once I got to the rear of the vehicle, that's when I seen the officers pointing the gun and I seen the suspect all - - like all in one vision."*<sup>55</sup>

*"I seen the other officers guns drawn and then I seen the suspect on the ground and then I heard the other officers too, "Drop the gun. Drop the gun," at that point."*<sup>56</sup>

- **Officer Martinez** – According to Officer Martinez, she unholstered her service pistol while sitting inside the police vehicle once she observed Calloway running northbound towards her direction and could still see Calloway holding a handgun in his left hand.

Officer Martinez recalled, *"I unholstered inside of the vehicle when he got closer to our vehicle as he's running back northbound and I saw the gun again but in his left hand."*<sup>57</sup>

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<sup>52</sup> Officer Rios, Page 34, Lines 14-21.

<sup>53</sup> Officer Rios, Page 54, Lines 16-21.

<sup>54</sup> Officer Silos, Page 15, Lines 20-22.

<sup>55</sup> Officer Silos, Page 16, Lines 5-8.

<sup>56</sup> Officer Silos, Page 18, Lines 8-11.

<sup>57</sup> Officer Martinez, Page 23, Lines 19-22.

*“So the moment he double backed and starts running towards us, I unholstered my weapon. I kept my finger along the frame and I gave him commands. As soon as I was giving him commands, he was already up by my vehicle passing by.”<sup>58</sup>*

*“I unholstered because I saw the gun and I - - the tactical situation could lead to - - the tactical situation can lead to where use of deadly force may be justified.”<sup>59</sup>*

- **Officer Bendimez** – According to Officer Bendimez, she unholstered her service pistol after the OIS as she was part of the arrest team that took Calloway into custody. Officer Bendimez believed that Calloway was still a threat.

Officer Bendimez recalled, *“And then I saw that the officers were moving towards the subject to possibly take him into custody. So, at that point, I drew - - drew and exhibited my firearm.”<sup>60</sup>*

*“I believed that the situation would, the tactical situation would escalate to the use of deadly force, due to the fact that shots had been fired at that time.”<sup>61</sup>*

*“I unholstered it and held it at a low ready with the two-handed grip just in case I would need to assist in being cover officer for another officer taking the subject into custody.”<sup>62</sup>*

- **Officer Mata** – According to Officer Mata, he heard *gun shots* but was not sure if it was Calloway who shot or the officers who shot. Officer Mata ran over to where Officers Rios and Velasquez were standing and observed their service pistols drawn. Believing the tactical situation may escalate, Officer Mata unholstered his service pistol and drew out to a low-ready position in Calloway’s general area.

Officer Mata recalled, *“That’s as far as I was walking, I was running towards them.”<sup>63</sup>*

Officer Mata unholstered *“Right when I got like towards the officers.”<sup>64</sup>*

Officer Mata heard *“shots fired and other officers with their handguns out. They were pointed at the suspect.”*

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<sup>58</sup> Officer Martinez, Page 6, Lines 22-25, and Page 7, Line 1.

<sup>59</sup> Officer Martinez, Page 23, Lines 25, and Page 24, Lines 1-3.

<sup>60</sup> Officer Bendimez, Page 19, Lines 19-22.

<sup>61</sup> Officer Bendimez, Page 19, Lines 24-25, and Page 20, Lines 1-2.

<sup>62</sup> Officer Bendimez, Page 21, Lines 13, 16.

<sup>63</sup> Officer Mata, Page 20, Lines 16-17.

<sup>64</sup> Officer Mata, Page 20, Lines 13-14.

*"I didn't know if he had shot or the officers had shot. I just heard some gunshots and I didn't know who had shot."*<sup>65</sup>

*"Because I didn't want to the tactical situation you know, may escalate."*<sup>66</sup>

In this case, the UOFRB conducted a thorough evaluation of the reasonableness of Officers Rios, Velasquez, Mata, Bendimez, Silos and Martinez's Drawing/Exhibiting.

The UOFRB noted that Officers Rios and Velasquez were responding to a radio call of an armed suspect who was pointing a handgun at passing vehicles. Officers Mata, Bendimez, Silos and Martinez responded and assisted Officers Rios and Velasquez. Officer Velasquez unholstered his service pistol as they approached the area of the radio call due to the comments of the call that the suspect was armed and pointing his handgun in a dangerous manner. Officer Rios drew his service pistol as he believed that Calloway was armed. Officer Mata unholstered his service pistol after he heard a gunshot and ran over to Officers Rios and Velasquez where he observed Officers Rios and Velasquez with their service pistols out. Officer Bendimez unholstered her service pistol after the OIS as they approached Calloway to take him into custody because she believed Calloway was still a threat. Officer Silos observed Calloway run past their police vehicle and believed Calloway was holding a handgun. Officer Silos heard what he believed to be a gunshot. Officer Silos then exited his police vehicle, observed other officers with their service pistols drawn and unholstered his service pistol. Officer Martinez unholstered her service pistol while seated inside the police vehicle once she observed Calloway running northbound towards their direction, holding a handgun in his left hand.

The UOFRB opined, based on the totality of the circumstances, and the Chief concurred, that an officer with similar training and experience as Officers Rios, Velasquez, Mata, Bendimez, Silos and Martinez, while faced with similar circumstances, would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, the Chief found Officers Rios, Velasquez, Mata, Bendimez, Silos and Martinez's Drawing/Exhibiting to be In-Policy, No Further Action.

## **Use of Force – General**

- *It is the policy of this Department that personnel may use only that force which is "objectively reasonable" to:*
  - *Defend themselves;*
  - *Defend others;*
  - *Effect an arrest or detention;*

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<sup>65</sup> Officer Mata, Page 20, Lines 24-25, Page 21, Line 1.

<sup>66</sup> Officer Mata, Page 21, Lines 6-7.

- Prevent escape; or,
- Overcome resistance

*The Department examines reasonableness using Graham v. Connor and from the articulated facts from the perspective of a Los Angeles Police Officer with similar training and experience placed in generally the same set of circumstances. In determining the appropriate level of force, officers shall evaluate each situation in light of facts and circumstances of each particular case. Those factors may include, but are not limited to:*

- *The seriousness of the crime or suspected offense;*
- *The level of threat or resistance presented by the subject;*
- *Whether the subject was posing an immediate threat to officers or a danger to the community;*
- *The potential for injury to citizens, officers or subjects;*
- *The risk or apparent attempt by the subject to escape;*
- *The conduct of the subject being confronted (as reasonably perceived by the officer at the time);*
- *The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;*
- *The availability of other resources;*
- *The training and experience of the officer;*
- *The proximity or access of weapons to the subject;*
- *Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number officers versus subjects; and,*
- *The environmental factors and/or other exigent circumstances. (Los Angeles Police Department Manual, Volume 1, Section 556.10)*

## **Lethal Use of Force**

- *Law enforcement officers are authorized to use deadly force to:*
  - *Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or,*
  - *Prevent a crime where the subject's actions place person(s) in imminent jeopardy of death or serious bodily injury; or,*
  - *Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall, to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury (Los Angeles Police Department Manual, Volume No.1, Section 556.10).*

*The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force (Los Angeles Police Department Manual, Volume No.1, Section 556.10).*

- **Officer Rios** – 9mm, one round, in a southwesterly direction from a distance of approximately 54 feet.

According to Rios, as he and Officer Velasquez ran southbound on Crocker Street, they repositioned into the street and observed Calloway make a sudden stop, turn, and then began to run northbound on the sidewalk toward them. As Calloway ran, Officer Rios observed a handgun in Calloway's left hand. Officer Rios described the handgun as a revolver with a *shiny, metallic-like barrel*. Officer Rios told Officer Velasquez that "he has a gun." According to Officer Rios, due to Calloway quickly changing directions towards him, he was unable to redeploy to cover and did not want to turn his back towards Calloway. Officer Rios could not recall any available cover in the immediate area. Officer Rios observed Calloway quickly closing the distance on him. Officer Rios gave Calloway commands to stop. Calloway did not respond to this order. In fear for his life, Officer Rios fired one round at Calloway's center body mass.

Officer Rios recalled, *"I see a firearm in his left hand."*<sup>67</sup>

*"I know it was - - it was a shiny, metallic-like barrel. Don't know the exact color. It appeared to be a revolver just because of the cylinder. That was confirmed - - yes, Sir. That's what I observed at the time."*<sup>68</sup>

*"Because he suddenly turned in my direction. There was nowhere for me to redeploy without me turning my back to this - - even then there wouldn't be anywhere to get cover. There was no - - from my memory right now, that there was no vehicles around or any hard barriers I could use for cover."*<sup>69</sup>

*"So there's street lights - - the florescent street lights that are on at night. I was able to see more detail of the firearm as he got underneath the lights. I believe that was the point where I verbalized to my partner that he has a gun."*<sup>70</sup>

*"He closed the distance pretty quickly. He went from five to six to maybe two to three approximate (Car lengths)."*<sup>71</sup>

*"And he was closing distance pretty quickly with the firearm in his hand, and I told him - - I gave him commands to stop, and he did not stop."*<sup>72</sup>

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<sup>67</sup> Officer Rios, Page 41, Lines 15-16.

<sup>68</sup> Officer Rios, Page 41, Lines 19-23.

<sup>69</sup> Officer Rios, Page 43, Lines 4-10.

<sup>70</sup> Officer Rios, Page 44, Lines 15-20.

<sup>71</sup> Officer Rios, Page 43, Lines 17-19.

<sup>72</sup> Officer Rios, Page 43, Lines 23-25, and Page 44, Line 1.

*“So I’m describing the angle of the firearm in his hand right now. It appears that it’s like mid-waist and coming up, and then that’s when I fired my weapon.”<sup>73</sup>*

*“And prior to shooting, I was at a low ready. And when I believe my light was - - my life was in eminent threat, that’s when I placed my sights in the center mass of the suspect and fired one round.”<sup>74</sup>*

*“I believe that he was going to use a firearm on me. And I don’t think there was anything else I could have done.”<sup>75</sup>*

*“And I observed that he had fallen to the ground. Believing that he was struck and the threat was stopped, I didn’t fire any additional rounds.”<sup>76</sup>*

In this case, the UOFRB conducted a thorough review of the investigation and considered several factors in evaluating the reasonableness of Officer Rios’s use of lethal force. The UOFRB noted that the incident was a stressful situation wherein the officers were attempting to detain an assault with a deadly weapon suspect (Calloway) who was armed with a handgun. The UOFRB noted that this was a dynamic and rapidly unfolding incident where Calloway initially ran away from officers. Calloway, however, stopped, turned, and began to run towards the officers, which limited their option to redeploy and de-escalate. As Calloway continued to run towards Officer Rios, he was able to identify that Calloway was holding a handgun. Officer Rios gave verbal commands for Calloway to stop and Calloway did not comply. Despite verbal commands from Officer Rios, Calloway continued running towards Officer Rios and Officer Velasquez. Officer Rios was in fear for his life, as well as the life of Officer Velasquez, who stood next to him. After firing his initial round, Officer Rios assessed that Calloway had fallen to the ground and was no longer a threat. The UOFRB opined that Officer Rios was presented with an imminent and deadly threat after being engaged in a foot pursuit. As Calloway ran towards the officers holding a handgun, Calloway presented an immediate and substantial threat to Officers Rios and Velasquez.

**Background – Officer Rios:** The UOFRB discussed officers’ need to continually assess the background within the context of a tactical incident while weighing the life-threatening risks to the victims, officers, bystanders, and suspects. Officer Rios is reminded to be cognizant of his background during tactical encounters which may result in the use of deadly force and have the potential to harm community members in the area. The Chief would have preferred Officer Rios had communicated with

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<sup>73</sup> Officer Rios, Page 44, Lines 8-11.

<sup>74</sup> Officer Rios, Page 48, Lines 1-5.

<sup>75</sup> Officer Rios, Page 70, Lines 5-7.

<sup>76</sup> Officer Rios, Page 45, Lines 19-22.



the uninvolved individual regarding the hazard presented by remaining in the area of Calloway.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that an officer with similar training and experience as Officer Rios would reasonably believe Calloway's actions presented an imminent threat of death or serious bodily injury and that the use of lethal force would be objectively reasonable. Therefore, the Chief found Officer Rios' use of lethal force to be In Policy, No Further Action.

- **Officer Velasquez** – 9mm, one round, in a southwesterly direction from a distance of approximately 44 feet.

According to Officer Velasquez, Calloway suddenly stopped running southbound on Crocker Street and ran northbound on the sidewalk towards their direction. As Calloway ran, Officer Velasquez observed a white metal revolver in Calloway's right hand. Officer Velasquez gave Calloway commands to "Get on the fucking floor," which Calloway did not respond to. As Calloway closed the distance, Officer Velasquez observed Calloway raise up his right arm and pointed the handgun in his direction. Officer Velasquez then heard a single shot which Officer Velasquez believed was a shot from Calloway at him. In fear for his life, Officer Velasquez fired one round at Calloway.

Officer Velasquez recalled, *"I observe a metal - - a white metal revolver in his right hand. The suspect is - - is running, and with the revolver in his right hand, actually points it towards me and my partner. At which point, I just, I start to - - to think that I might not see my family no more, because he's closing the distance. I don't even have time to basically give him any commands. And then I see him - - I just see just his gun facing at me, and I - - and I hear him shoot. At which point, fearing for my life and safety of myself and my partner, I shoot back at him. Then I see a suspect collapse to the ground."*<sup>77</sup>

*"At first, he was running, swinging his arms. When he is getting closer towards the building that I mentioned is when he's - - his arm is straight out, aiming the revolver."*<sup>78</sup> *A 90-degree angle, aiming it towards what I thought was me. And shortly after is when I thought he shot at me."*<sup>79</sup>

In this case, the UOFRB conducted a thorough review of the investigation and considered several factors in evaluating the reasonableness of Officer Velasquez's use of lethal force. The UOFRB noted that the incident was a stressful situation wherein the officers were attempting to detain an assault with a deadly weapon

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<sup>77</sup> Officer Velasquez, Page 14, Lines 5-17.

<sup>78</sup> Officer Velasquez, Page 33, Lines 13-16.

<sup>79</sup> Officer Velasquez, Page 33, Line 25, and Page 34, Lines 1-2.

suspect (Calloway) that was armed with a handgun. The UOFRB noted that this was a dynamic and rapidly unfolding incident where Calloway initially ran away from officers, however, Calloway stopped, turned, and began to run towards officers, which limited their option to redeploy and de-escalate. As Calloway continued to run towards Officer Velasquez, he was able to identify that Calloway was holding a handgun. Officer Velasquez gave verbal commands for Calloway to stop. Calloway continued running towards Officer Velasquez and showed no signs of stopping. Calloway raised his handgun towards Officer Velasquez and Velasquez' statements indicated he thought Calloway had discharged a round towards the officers. In response to Officer Velasquez' belief that Calloway presented a deadly threat, Officer Velasquez discharged one round from his service pistol, assessed that Calloway had fallen to the ground, and determined that Calloway was no longer a threat.

**Background – Officer Velasquez:** The UOFRB discussed officers' needs to continually assess the background within the context of a tactical incident while weighing the life-threatening risks to the victims, officers, bystanders, and suspects. Officer Velasquez is reminded to be cognizant of his background during tactical encounters which may result in the use of deadly force and have the potential to harm community members in the area. The Chief would have preferred Officer Velasquez had communicated with the uninvolved individual regarding the hazard presented by remaining in the area of Calloway.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that an officer with similar training and experience as Officer Velasquez would reasonably believe Calloway's actions presented an imminent threat of death or serious bodily injury and that the use of lethal force would be objectively reasonable. Therefore, the Chief found Officer Velasquez's use of lethal force to be In Policy, No Further Action.

### **Additional/Equipment**

- **Digital In-Car Video System (DICVS)** – Officers Rios, Velasquez, Mata, Bendimez, Silos and Martinez's police vehicles were equipped with DICVS; however, their DICVS for this incident were not activated. This issue was brought to the attention of Captain R. Goddard, Serial No. 32757, Commanding Officer, Newton Patrol Division, who advised these deviations were addressed with Officers Rios, Mata, Bendimez, Silos and Martinez's through the generation of a Supervisory Action Item (SAI) and an Informal Meeting and with Officers Velasquez, through the generation of SAIs and the issuance of Notice to Correct Deficiencies. The Commanding Officer of Operations-Central Bureau (OCB) and the Director of Office of Operations (OO) concurred with this action. As such, The Chief deemed no further action is necessary.

- **Body Worn Video (BWV) Activations** – The investigation revealed that Officers Velasquez, Mata, Bendimez, Silos, Martinez, Sosa, Pimentel, Vildosola, Ruiz and Sergeant Aguirre had deviations of their BWV.

Officers Velasquez, Sosa, and Ruiz had reduced buffers and/or a late activation. These issues were brought to the attention of Captain Goddard who advised that these deviations were addressed through the generation of SAIs and the issuance of Employee Comment Sheets. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

Officers Mata, Bendimez, Silos, Martinez, and Vildosola had reduced buffers and/or a late activation. These issues were brought to the attention of Captain Goddard who advised that these deviations were addressed through the generation of SAIs and an Informal Meeting. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

Officer Pimentel did not activate his BWV device. This issue was brought to the attention of Captain Goddard who advised that this deviation was addressed through the generation of a SAI and the issuance of an Employee Comment Sheet. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

Sergeant Aguirre did not activate his BWV device. This issue was brought to the attention of Captain Goddard who advised that this deviation was addressed through the generation of a SAI and Informal meeting. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

The Office of Operations conducted a random inspection of BWVs associated to Officers Velasquez, Mata, Bendimez, Silos, Martinez, Sosa, Pimentel, Vildosola, Ruiz and Sergeant Aguirre for a 30-day period for compliance with BWV policy specific to complete recordings of investigative or enforcement contacts with the public. The results of the inspection indicated that all personnel were in compliance.

- **Communications Division Radio Broadcast Protocols** – CD received a 911 call where the caller stated that a *male, Black was pointing a revolver at passersby and was waving the handgun in the air*. Police Service Representative (PSR) O. Nunez, Serial No. N4445, CD, coded the call for service as a “Code Two” radio call, when it should have been a “Code Three” radio call.

This information was brought to the attention of Captain Storaker, who advised that this issue was addressed through the issuance of an Employee Comment Sheet and that PSR Nunez will be directed to attend a refresher class that will be held by the Officer in Charge (OIC) of CD’s Training Unit. The Commanding Officer of

Administrative Services Bureau (ASB) and the Director of the Office of Support Services (OSB) concurred with this action. As such, the Chief deemed no further action is necessary.

- **Required Equipment** – Officer Silos left his side-handle baton in the vehicle at the time of the incident. This issue was brought to the attention of Captain Goddard who advised that this issue was addressed through the issuance of an Employee Comment Sheet and the generation of a Supervisor Action Item. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

Officer Martinez left her side-handle baton and her Hobble Restraint Device in the vehicle at the time of the incident. This issue was brought to the attention of Captain Goddard, who advised that this issue was addressed with Officer Martinez through the issuance of an Employee Comment Sheet and the generation of a Supervisory Action Item. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

- **Profanity** – Officers Velasquez utilized profanity when giving orders for Calloway to get on the ground as he ran towards them. Officer Silos utilized profanity while Calloway was being taken into custody. This issue was brought to the attention of Captain Goddard who advised that this issue was addressed with Officer Velasquez through the issuance of an Employee Comment Sheet and a Supervisory Action Item. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

Officer Silos utilized profanity while Calloway was being taken into custody. This issue was brought to the attention of Captain Goddard who advised that this issue was addressed with Officer Silos through the issuance of an Employee Comment Sheet and a Supervisory Action Item. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

- **Adherence to the Vehicle Code while Responding to a Help Call without Emergency Equipment** – Officers Vildosola and Ruiz responded to the incident in their police vehicle without their emergency equipment activated. DICVS footage from their police vehicle recorded the police vehicle traveling through an unidentified intersection during the red tri-light phase as they responded to the incident. This issue was brought to the attention of Captain Goddard who advised that this issue was addressed through informal training and the generation of a Supervisory Action Item. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.
- **Incident Commander Declaration** – Sergeant Lobo assumed the role as Incident Commander but did not broadcast that information. This issue was brought to the attention of Captain Goddard who advised that this issue would be addressed

through divisional training. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

- **Recording Public Safety Statement** – Sergeant Lobo recorded a portion of Officer Velasquez' PSS on BWV. This issue was brought to the attention of Captain Goddard who advised that the issue of partially recording the PSS was addressed through divisional training. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.
- **DOC Notification** – Captain H. Mohammadi, Serial No. 36506, Commanding Officer, Newton Patrol Division, made a late notification to the DOC which exceeded the 30-minute DOC notification requirements. This issue was brought to the attention of Commander M. Rimkunas, Serial No. 32211, Office of Operations. Commander Rimkunas advised this issue will be addressed with informal counseling. As such, the Chief deemed no further action is necessary.

### **Audio/Video Recordings**

- **Digital In-Car Video System (DICVS)** – Following this incident, there were 30 units that responded to the scene from Newton, Central and Hollenbeck Divisions. The DICV footage from these units captured their response to the "help call" and crime scene activity (post-OIS).
- **Body Worn Video (BWV)** – All of the officers involved in this incident were equipped with BWV cameras.

Officer Rios activated his BWV camera when he exited his vehicle. The footage captured portions of Calloway's actions as well as Officer Rios' movements and audio during the OIS.

Officer Velasquez activated his BWV after the OIS. Although he was delayed in his activation, his BWV footage captured portions of Calloway's actions as well as Officer Velasquez' movements without audio.

Officers Mata, Bendimez, Silos and Martinez were delayed in the activation of their BWV. Footage from their BWV captured their movements and actions after the OIS.

- **Outside Video/Surveillance** – There were a total of 12 outside videos obtained related to this incident, all of which were reviewed in their entirety by FID investigators.

Five security videos captured portions of Calloway's actions at 1242 East 7th Street where the radio call originated. Those video cameras were mounted on the interior

and exterior of the apartment complex. The video system was a continuous recording camera and did not include sound.

Seven security videos were located that captured portions of the incident near the area of the OIS. Those cameras were mounted to various businesses and did not include sound. Those video systems were continuous recording cameras.

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## **INSPECTOR GENERAL REVIEW**

### **Inspector General Analysis**

#### **Investigation Quality**

- No significant issues of concern were identified in relation to investigation quality.

#### **Training Issues**

- No significant issues of concern were identified in relation to training.

#### **Equipment Issues**

- No significant issues of concern were identified in relation to equipment.

#### **Detention**

- The OIG concurs with the Chief's conclusion.

#### **Tactical De-escalation**

- The OIG concurs with the issues identified in the Chief's analysis regarding the shortcomings in Officers Rios, Velasquez, Mata, Bendimez, Silos and Martinez's adherence to applicable de-escalation standards. With regard to these issues, the actions of these officers did not comport with Department training regarding de-escalation.

#### **BWV and DICVS Policy Compliance**

SERIAL	NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT
42557	Rios, M.	Yes	Yes	Yes	No	No
42563	Velasquez, F.	No	Yes	No	No	No
40829	Mata, J.	No	No	No	No	No
41901	Bendimez, K.	No	Yes	No	No	No
42869	Silos, S.	No	No	No	No	No
42439	Martinez, J.	No	No	No	No	No

### **Inspector General Recommendations**

#### **Tactics**

- The OIG concurs with the Chief's findings.

## **Drawing/Exhibiting**

- The OIG concurs with the Chief's findings.

## **Lethal Use of Force**

- In its review of the use of lethal force by Officers Rios and Velasquez, the OIG considered the presence of a bystander in close proximity to Calloway at the time the officers discharged their weapons. Of the two officers, only Officer Rios was aware of the bystander's presence. According to Officer Rios, he did not believe the individual was "immediately behind" Calloway at the time he fired. Although the OIG believes that the evidence supports the objective reasonableness of both officers' perceptions that Calloway's actions with his handgun presented an imminent threat of death or serious bodily injury to them, and that their decisions to use deadly force were within policy, the potential danger created to the bystander is nevertheless a matter of significant concern. The OIG concurs with the Chief in reminding Officers Rios and Velasquez that "the background, within the context of a tactical incident, must be continually assessed while considering the risks to victims, officers, and community members", as well as in directing that this be a topic of discussion during the Tactical Debrief.



Mark P. Smith  
Inspector General